

Equality Analysis

Birmingham City Council Analysis Report

EA Name	Regulation And Enforcement Division Enforcement Policy
Directorate	Place
Service Area	Regulation & Enforcement
Type	Amended Policy
EA Summary	The Enforcement Policy sets out what businesses and others being regulated can expect from Birmingham City Council's Regulatory Services in the performance by it of its regulatory and enforcement functions. It commits Regulatory Services to good enforcement practice with effective procedures and clear policies. In particular it ensures that our actions are compliant with the Human Rights Act 1998.
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Introduction

The report records the information that has been submitted for this equality analysis in the following format.

Overall Purpose

This section identifies the purpose of the Policy and which types of individual it affects. It also identifies which equality strands are affected by either a positive or negative differential impact.

Relevant Protected Characteristics

For each of the identified relevant protected characteristics there are three sections which will have been completed.

- Impact
- Consultation
- Additional Work

If the assessment has raised any issues to be addressed there will also be an action planning section.

The following pages record the answers to the assessment questions with optional comments included by the assessor to clarify or explain any of the answers given or relevant issues.

1 Activity Type

The activity has been identified as a Amended Policy.

2 Overall Purpose

2.1 What the Activity is for

What is the purpose of this Policy and expected outcomes?	<p>Aims: This Equality Assessment accompanies the 2014 revision of the Enforcement Policy that is applicable to the work of Trading Standards, Environmental Health and Licensing (Regulatory Services) in Birmingham City Council.</p> <p>Objectives: The Enforcement Policy sets out what businesses and others being regulated can expect from Birmingham City Councils Regulatory Services in the performance by it of its regulatory and enforcement functions. It commits Regulatory Services to good enforcement practice with effective procedures and clear policies. In particular it ensures that our actions are compliant with the Human Rights Act 1998.</p> <p>Outcomes: Our Enforcement Policy helps us to deliver our Mission Statement, which is Locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors. In turn, our mission statement and the objectives of the Enforcement Policy support the vision, priorities and outcomes contained in the Council Business Plan.</p>
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For each strategy, please decide whether it is going to be significantly aided by the Function.

Public Service Excellence	Yes
<u>Comment</u> It is a legal requirement for Regulatory Services to publish an Enforcement Policy. Therefore the publication of this policy will ensure that we meet our legal obligations. Regulatory Services holds the Cabinet Office Customer Service Excellence Award, part of which requires services to make their customers aware of the standards of service delivery that can be expected and this policy will contribute to this objective.	
Fairness	Yes
<u>Comment</u> The Policy will address the above Equality Duties by creating a level playing field between businesses to enable them to compete fairly and to ensure that all members of the public are protected from unfair or unscrupulous trading practices. In addition, it details what private individuals may expect from Regulatory Services in exercising all of its powers, whether they visit, reside or work in Birmingham, if they were to commit an offence enforced by Regulatory Services. The policy is based upon a number of principles one of which includes that all enforcement decisions are fair, independent and objective and will not be influenced by issues such as ethnicity, national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, witness, victim or offender.	
Prosperity	Yes
<u>Comment</u> The enforcement policy seeks to ensure that reputable businesses are protected from unfair competition from businesses that knowingly or inadvertently fail to comply with regulatory requirements. In so doing it helps businesses to flourish and succeed.	
Democracy	No

2.2 Individuals affected by the policy

Will the policy have an impact on service users/stakeholders?	Yes
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<u>Comment</u>	
In this context the term 'Service Users' is interpreted to mean those people against whom enforcement action is taken. By its very nature, the policy is specifically designed to provide information for people or businesses that fall into that category. It will therefore affect them to the extent that decisions to take enforcement action will be influenced by the content of the policy, however the policy is a tool to protect them from illegal discrimination and is therefore for their benefit.	
Will the policy have an impact on employees?	Yes
<u>Comment</u>	
Employees are affected by the policy to the extent that they use the policy to assist them to arrive at decisions about whether to take enforcement action against individuals and businesses,	
Will the policy have an impact on wider community?	Yes
<u>Comment</u>	
The wider community will be affected by the policy in that they may be the direct victims of the people or businesses against whom enforcement action is taken, or they may indirectly benefit from our enforcement action as a result of the protection that the apprehension of criminals affords the wider community because it prevents further harm being done to other people.	

2.3 Analysis on Initial Assessment

One of the main reasons for the policy is to reduce the possibility for unfair or inequitable decisions to be made. However, the policy is intrinsically linked to City Council priorities and these need to be understood to fully understand the policy. As a direct result the policy will be published and be available alongside the annual Regulation & Enforcement Service Plan.

The effective and efficient application of enforcement powers is reliant upon the integrity of the officers involved. There will always be a potential for inappropriate enforcement arising from bias however this should be mitigated during the checks and balances of more senior officers and solicitors who vet files and oversee enforcement decisions. There is also the potential for enforcement work that should occur not to have been taken by the officer due to bias and this is more difficult to spot and rectify. Audits of files, joint visits and process control of officers work loads are all in place to reduce this possibility.

We have identified that the policy does not discriminate, however the targeting of proactive enforcement may affect only a particular community within the city for justifiable reasons, particularly in business sectors where there is over-representation of groups from particular ethnic backgrounds.

For example, checking compliance with hallmarking offences targets Asian owned jewellers who have been found previously to be non-compliant. It does however protect their customers (who are largely from the same community) from the sale of jewellery that is of a lesser standard than claimed at the point of sale (e.g. a ring sold as 24 carat which is in fact 22 carat).

If the policy works it should protect people, businesses and the environment. There will always be adverse and positive impacts and we believe the positive outcomes outweigh the negative. We are increasingly seeking to use any relevant powers to appropriately intervene. e.g. Civil powers are being used to remedy an injustice or compensate; criminal powers are there to penalise. By using both sanctions we are seeking to increase the positive impacts of enforcement and decrease the negative. e.g. If an elderly person has been subject to a scam, we may not only penalise the offender but may also be able to recover monies for vulnerable service users.

The Enforcement Policy is a document designed to ensure that enforcement decisions are fair, proportionate and consistent. The decision to take enforcement action against an individual will by its nature have an adverse effect on that individual, however the impact that that decision has on the individual is not of itself an Equalities issue. This Equality Assessment does not require further analysis.

3 Concluding Statement on Full Assessment

The Enforcement Policy is a document designed to ensure that enforcement decisions are fair, proportionate and consistent. The decision to take enforcement action against an individual will by its nature have an adverse effect on that individual, however the impact that that decision has on the individual is not of itself an Equalities issue. This Equality Assessment does not require further analysis.

4 Review Date

01/09/17

5 Action Plan

There are no relevant issues, so no action plans are currently required.

Work In Progress