

Birmingham City Council

Report to the Leader

10 June 2020



Subject: Regulation and Enforcement, Enforcement Policy Review

Report of: Paul Lankester, Interim Assistant Director – Regulation and Enforcement

Relevant Cabinet Member: Councillor Ian Ward - Leader

Relevant O &S Chair(s): Sir Albert Bore – Resources Overview and Scrutiny Committee

Report author: Tony Quigley
Head of the England Illegal Money Lending Team
0121 303 9158
Email: tony.quigley@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

- 1.1 On 6 April 2014 the Regulators Code came into force which had implications for all Local Authority Enforcement Policies. On 17 June 2015 a revised enforcement policy was agreed following consultation and an equality impact assessment. A further review, of the policy, was conducted in November 2017.

- 1.2 The Council is required to keep our Enforcement Policy under regular review. The attached report has been updated and revised to include the new names of relevant government departments responsible for policy and to identify when it is likely that enforcement action will be initiated by the Council.

2 Recommendations

- 2.1 That the Enforcement Policy which is attached at Appendix 1 be approved.

3 Background

- 3.1 The Regulation and Enforcement Division's Enforcement Policy is a document that provides officers with guidance in respect of enforcement decisions. It is as important for officers as it is for those against whom enforcement action might be taken as it helps to provide clarity and encourages consistency in the decision making process. As a Local Authority regulator, the Council is obligated to publish a policy by the Regulator's Code. It requires the Council to have regard to certain principles when constructing its policy, which are repeated for convenience below.
- 3.2 The Regulators' Code attempts to improve the way regulation is delivered at the front line. It sets out a framework for transparent and accountable regulatory delivery and establishes principles for how local authorities should interact with those they are regulating. The Code is underpinned by the statutory principles of good regulation, which provide that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
- 3.3 At the meeting of the Licensing and Public Protection Committee on 15 November 2017 the Regulation and Enforcement Division's Enforcement Policy was presented as part of an ongoing commitment to keep the enforcement policy under review. The policy provides guidance to officers engaged within regulatory enforcement activities as well as guidance for the members of the Licensing and Public Protection Committee. This is a review of that policy to ensure the information remains up to date with the regulators code.

4 Options considered and Recommended Proposal

- 4.1 Adoption and publication of the Council's enforcement policy is a legal requirement.

5 Consultation

- 5.1 In view of the minor changes that are proposed to the policy, and the fact that since its adoption no formal complaints or concerns about the interpretation or application of the policy have been received, no external consultation has taken place on this review.

6 Risk Management

- 6.1 Failure to publish an Enforcement policy in conjunction with requirements under the Regulators Code could result in a legal challenge.
- 6.2 The policy provides a transparent and proportionate approach to enforcement. It will reduce the risk of any action relating to allegations of inappropriate or inconsistent enforcement action by the council. The policy also reiterates action will be taken where appropriate and provides a framework for this action.
- 6.3 The policy and criteria sets a framework for fair, consistent and transparent decision making when considering enforcement action and disposal.
- 6.4 The policy and criteria will demonstrate the Council's compliance with statutory guidance.
- 6.5 The policy will be reviewed on an ongoing basis by the Regulation and Enforcement division, to ensure the policy represents best practice.

7 Compliance Issues:

- 7.1 The issues addressed in this report underpin the City Council Vision, Birmingham is an entrepreneurial city to learn, work and invest in, Birmingham is an aspirational city to grow up in, Birmingham is a great city to live, Birmingham is a fulfilling city to age well in.
- 7.1.1 Further Regulation and Enforcement will be a key service in ensuring Birmingham residents gain the maximum benefit from hosting the Commonwealth Games by supporting legitimate business and tackling rogue traders looking to take advantage of opportunities that arise within the ghost market.
- 7.1.2 They also support the Regulation and Enforcement Mission Statement: Locally accountable and responsive fair regulation for all – achieving a safe, clean, green and fair trading city for residents, business and visitors.

7.2 Legal Implications

- 7.2.1 Under the Legislative and Regulatory Reform Act 2006, regulators (such as the Council's Regulation and Enforcement Division) are required to comply with any codes of practice produced by central government. The Regulators Code, published by the Department for Business Energy and Industrial Strategy (formerly BIS) in April 2014, states that regulators should ensure that their approach to

regulation is transparent. By publishing the policy the City Council is meeting its obligations.

7.3 Financial Implications

- 7.3.1 The revised policy will be administered by the Regulation and Enforcement Division within existing resources and budgets. There are no financial implications arising from this report.

7.4 Procurement Implications (if required)

None identified.

7.5 Human Resources Implications (if required)

N/A.

7.6 Public Sector Equality Duty

- 7.6.1 The proposed revised policy applies to all businesses residents and staff and will not have a significant impact on any with different protected characteristics.
- 7.6.2 An initial Equality Impact Analysis was completed in 2014 when the Policy was first drafted. It has not been changed since 2014 given that the Policy has not changed significantly.
- 7.6.3 One of the benefits of an enforcement policy is to ensure consistency and fairness of enforcement throughout all communities and the commercial sector in Birmingham. The purpose of this Policy is to ensure that decisions are made transparently and to eliminate unfair or inequitable decisions. By its nature it should not have an adverse impact on anyone with protected characteristics.

8. Appendices

Amended Enforcement Policy – Appendix 1
Risk Matrix – Appendix 2
Equality Analysis – Appendix 3