



General Enforcement Policy

Please note that information below does not reflect all current legislation. The policy is being reviewed in the light of legislative changes.

If you have any views on how this revised enforcement policy will affect you [send a message to the Environmental Health team](#).

Basingstoke and Deane Borough Council follows the [Regulators Code](#).

Current enforcement policy has been drafted in line with the code, and aims to ensure all enforcement:

- is fair, accountable, consistent, proportionate and transparent
- is an effective use of resources through a risk-based methodology
- improves protection for the community and businesses
- reduces the regulatory burden on businesses
- actively involves both business and community in the creation and review of the enforcement policy and methods

Contents

- [Key Features](#)
- [Introduction](#)
- [Aims](#)
- [Scope](#)
- [Methodology](#)
- [Business and community involvement](#)
- [Review](#)

Key Features

This policy covers a range of regulatory services.

We have consulted with business and the wider community and incorporated their views into the policy. We will continue to review it, in the light of feedback from any part of the community.

We have considered the cost, effectiveness, and likely perception of fairness resulting from this policy. We have also considered the impact our enforcement actions may have on small regulated entities (businesses or voluntary organisations), and try to ensure that the burdens of our interventions are fair and proportionate.

We will carry out risk assessments to ensure that our regulatory efforts and resources are targeted where they would be most effective. Inspections and other visits will be in accordance with the risk assessment, except where visits are requested, or we are required to investigate.

We will co-ordinate our work and share data with other regulators, when there are planned inspections of the same business. This is to avoid duplication and to minimise burdens on the business where practical, beneficial and cost effective.

Introduction

We have a responsibility to protect the communities we serve, using the legislative tools delegated by national government. Councils implement, administer and enforce a raft of legislation designed to protect health, local economies and the environment. In doing this, we have flexibility to determine the most appropriate methods for enforcement, to suit local needs and ensure value for money.

Consistent and fair application of our enforcement powers is critical in our delivery of this vision.

This policy and its appendices are based on the following reports and legislation:

- the Statutory Code of Practice for Regulators ('the Code')
- the Hampton Review and the Macrory Review
- advice from government departments and agencies
- the Local Authorities Co-ordinators on Regulatory Services
- existing legislation, such as the Human Rights Act 1998 and Regulation of Investigatory Powers Act 2000
- existing corporate policies, such as the Complaints Policy and Regulation of Investigations Policy
- best practice and 'The Code for Crown Prosecutors'

Aims

General enforcement

We aim to ensure our enforcement actions are:

Fair and accountable

Officers employed by the council must comply with the principles set out in this enforcement policy. They are accountable to the public for their actions and decisions.

We aim to ensure our enforcement actions are:

Consistent The same approach will be adopted to achieve similar ends under similar circumstances.

Transparent The council will help individuals, organisations or businesses to understand what is expected of them and what they should expect from us. We will also ensure that everyone can distinguish advice from legal obligations. Requirements and recommendations will be put in writing if requested.

Methodology

Enforcement should be:

An effective use of resources through a risk based methodology Our resources will be targeted primarily on activities by the individuals, organisations or businesses giving rise to the most serious risks to health and safety, the environment or statutory nuisance to the public.

Proportionate The enforcement action will relate to the risks to health and safety, the environment or the extent of nuisance to the public. Enforcement actions must be proportional to any risks, or to the seriousness of any breach. Care will be taken to ensure that no unnecessary costs are incurred.

Involving the community and improving protection:

Improve protection for the community and businesses We will target our resources to those who deliberately, or persistently, breach the law.

Reduce the regulatory burden on businesses Risk assessments and joint working will reduce the inspection burden on compliant businesses.

Reviews We will actively involve both businesses and the community in the creation and review of the policy.

Scope

This policy applies to the enforcement activities prescribed in the Regulators Code:

- environmental health
- community safety
- licensing
- parking

- building control
- planning enforcement
- dog warden
- waste management
- private sector housing management

We must adhere to these principles to be compliant with the aims of this policy. This applies not only when carrying out the enforcement, but also when setting policies, principles, and standards, and providing guidance relating to enforcement activities. We must, therefore, combine this methodology into both the processes and culture of our enforcement. This will be achieved through:

- the induction and ongoing training and coaching of staff
- ensuring staff are appropriately qualified, possess suitable experience, and are authorised to take the relevant action
- monitoring and reviewing performance
- accounting and reporting on enforcement
- the regular involvement of the community and business sector in the review and improvement of our enforcement

This policy is robust, due to the consultation, monitoring, management and review processes. However, in some cases, we may decide that a provision of this policy is irrelevant, or outweighed by another provision. We will ensure any decision to depart from this policy will be properly reasoned, based on material evidence, and documented. In these situations, the head of service must approve the enforcement action.

Methodology

We always strive to use advice and persuasion as the main methods to ensure businesses and the wider community comply with legal requirements. We give talks to community and business groups, and provide a variety of leaflets. We also offer free advice on a wide range of subjects via telephone, personal visit or on our website. We aim to respond within three working days to phone messages and five working days to letters or e-mails. Complex matters may take longer, and we will give a full reply or a progress report within 15 days.

You can expect our staff to:

- be courteous and helpful
- identify themselves by name and provide a contact point for further dealings
- give clear and simple advice
- confirm in writing, if requested, explaining what you must do to comply with the law, and the recommended best practice

- minimise the cost of compliance wherever possible
- give you a reasonable time to comply (unless immediate action is necessary in the interest of health, safety, the environment or to prevent evidence being lost)
- maintain confidentiality, except where we have a legal obligation to disclose information

Our aim is to ensure that any necessary enforcement action is in line with the recent findings of the Macrory Review of Regulatory Penalties. These actions should:

- change the behaviour of the offender
- eliminate any financial gain or benefit from a non-compliance (where possible)
- be responsive and consider what is appropriate for the particular offender and regulatory issue.
- be proportionate to the nature of the offence and the harm caused
- restore the harm caused by regulatory non-compliance, where appropriate
- deter future non-compliance

In doing so, we will measure improvements, restoration of harm, and the number of enforcement actions taken. Following the initial publication of the enforcement policy, we will provide stakeholders with an annual report outlining the enforcement outcomes.

To ensure we take proportionate action and targeted at cases requiring action, the following factors will be taken into consideration:

- the seriousness of any alleged offence
- the previous history of the individual, group or business and confidence in management (if relevant)
- any action taken by the responsible person/organisation, to resolve the situation
- the course of action that will best serve the community and protect them or the environment

Business and community involvement

This policy aims to improve protection for the community and businesses. It is, therefore, important to actively involve them. We will do this by consulting:

- the Local Business Partnership (LBP), which represents both businesses and enforcing authorities in the borough
- via the internet
- current users via postal survey
- potential users/the voluntary sector and the wider community

Review

The current Policy is under review to reflect recent legislative changes.

The basic principles of enforcement as set out above remain relevant and central to our approach to enforcement.

[Contact us if you require this document in a different format \(/different-format-info\).](#)

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