

Neighbourhood Services & Enforcement Committee

5 October 2023



Title	Spelthorne Borough Council - Environmental Health & Building Control Enforcement Policy
Purpose of the report	To make a decision
Report Author	Tracey Willmott-French, Senior Environmental Health Manager
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	NA
Corporate Priority	Service delivery
Recommendations	<p>Committee is asked to:</p> <ol style="list-style-type: none"> 1. Recommend to Corporate Policy and Resources Committee that they adopt the Environmental Health & Building Control Enforcement Policy (2023-2026) 2. Recommend to Corporate Policy and Resources Committee that they grant approval that minor changes can be made to the Policy with the approval of Deputy Chief Executive with responsibility for Place, Protection and Prosperity. 3. To note Spelthorne Borough Council's Environmental Health 'Procedure for Setting Financial Penalties - Banding the Offence and Determining Appropriate Sanctions'
Reason for Recommendation	<ul style="list-style-type: none"> • The Policy is important because it sets out the principles of good enforcement and details how issues of enforcement will be dealt with by the Council's Environmental Health and Building Control Services. • The Council's aim is to deliver regulatory enforcement functions in an enabling and supportive style, helping businesses and others meet their legal duty without unnecessary expense. However, where necessary and appropriate the Council will take firm action, including prosecution. • This Policy ensures that enforcement is carried out in a consistent and fair manner.

1. Summary of the report

- 1.1 This report seeks Committees approval for the adoption of the Environmental Health and Building Control Enforcement Policy (2023-2026). The Policy is attached at **Appendix A**.

- 1.2 The Policy sets out the principles of good enforcement and details how issues of enforcement will be dealt with by the Council's Environmental Health and Building Control Services (EHCB).
- 1.3 This policy will be applied in accordance with the principles set out in section 21 of the Legislative and Regulatory Reform Act 2006, so that decisions about enforcement action will be transparent, accountable, proportionate, consistent, and targeted only at cases where action is needed.
- 1.4 Full regard has been given to the Regulators Code (2014) made under the Legislative and Regulatory Reform Act 2006 in the development of this policy. Full regard will also be given to the Code by EHBC services in the development of operational practices that guide their regulatory activities, and when carrying out their day-to-day practice.
- 1.5 In carrying out its regulatory functions, as required by the Code, EHBC will take a graduated approach to enforcement action unless the sufficient reason not to.
- 1.6 The EHBC Enforcement Policy contains information about civil penalties, rent repayment orders, and banning orders, and how the Council is planning to use them. It considers the statutory guidance entitled "Civil Penalties" that was issued by the Government under section 23(10) schedule 1, and Schedule 9 of the Housing and Planning Act 2016.
- 1.7 Consideration has also been given to section 23 in respect of financial penalties for banning orders, schedule 1 with regards to breach of banning orders, and schedule 9 in respect of financial penalties for certain offences under the Housing Act 2006. This Enforcement Policy should be read in conjunction with the primary legislation, statutory guidance, and Environmental Health's procedure for setting financial penalties which is attached at **Appendix B**.

2. Key issues

- 2.1 In carrying out the enforcement of environmental health and building control legislation and when developing enforcement policies, local authorities need to take account of government policy, government agency, and initiatives at a national level.
- 2.2 EHBC services have systematically documented its enforcement policies in relation to each of the various pieces of legislation they enforce.
- 2.3 There will be occasions when parts of the proposed policy will need to be amended to reflect changes in legislation. To avoid the need of reporting every such amendment to this Committee, it is requested that Committee delegates authority to the Deputy Chief Executive with responsibility for Place, Protection and Prosperity to carry out this function.

3. Options analysis and proposal

- 3.1 It is proposed that the enforcement policy is approved.
- 3.2 The proposal to approve the Enforcement Policy will enable officers to work to an up-to-date framework and make accurate decisions about the most suitable course of action. It will also ensure that the services are less vulnerable to potential legal challenges to its decisions from solicitors defending clients that we may prosecute for serious contraventions of environmental health or building control legislation.

- 3.3 The proposed Enforcement Policy is available for Members in the Members' Room.
- 3.4 There is an option for members to propose amendments to the policy, but it has been developed based on government and legislative guidance. Changes made by members may not meet this guidance.
- 3.5 If members do not approve the proposed policy, then the service, as stated in 3.2, will be open to legal challenges to any decisions it makes to prosecute offenders.
- 4. Financial implications**
- 4.1 There are no financial considerations arising from this report. Implementation of regulatory enforcement is day-to-day EHBC practice which is accounted for within existing budgets.
- 5. Risk considerations**
- 5.1 The risks associated with not approving the proposed Enforcement Policy are outlined in paragraph 3.2 of the report.
- 6. Procurement considerations**
- 6.1 There are no procurement considerations arising from the report.
- 7. Legal considerations**
- 7.1 The relevant legislative requirements are contained within the body of the documents.
- 7.2 Legal has been consulted during the development of this policy and their comments have been taken on board.
- 8. Other considerations**
- 8.1 There are no other considerations.
- 9. Equality and Diversity**
- 9.1 The adoption of this proposed Policy will facilitate the Council's aim to achieve a level playing field of regulatory compliance within the Borough of Spelthorne, thereby reducing health inequalities by tackling the cause of ill-health, promoting, and protecting health, and promoting social justice and safer communities.
- 10. Sustainability/Climate Change Implications**
- 10.1 The adoption of this proposed Policy will support Environmental Health & Building Control's regulatory enforcement work, which will in turn support those sustainability and climate change issues that maybe negatively impacted by regulatory non-compliance.
- 11. Timetable for implementation**
- 11.1 If Committee approves the proposed Enforcement Policy, it will be published on the Council's website and implemented for immediate use.
- 12. Contact**
- 12.1 Tracey Willmott-French (t.willmott-french@spelthorne.gov.uk)

Background papers: There are none.

Appendices: -

- **Appendix A** - Environmental Health & Building Control Enforcement Policy (2023-2026)
- **Appendix B** - Banding the Offence and Determining Appropriate Sanctions Procedure