	<p align="center"><b>Policy and Resources Committee</b> <b>28 June 2016</b></p>
<p align="right"><b>Title</b></p>	<p><b>Barnet Draft Corporate Enforcement and Prosecution Policy</b></p>
<p align="right"><b>Report of</b></p>	<p>Jamie Blake, Commissioning Director, Environment</p>
<p align="right"><b>Wards</b></p>	<p>All</p>
<p align="right"><b>Status</b></p>	<p>Public</p>
<p align="right"><b>Urgent</b></p>	<p>No</p>
<p align="right"><b>Key</b></p>	<p>No</p>
<p align="right"><b>Enclosures</b></p>	<p>Appendix 1 – Barnet’s Corporate Enforcement and Prosecution Policy (DRAFT)</p>
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## Summary

This report outlines the draft corporate Enforcement and Prosecution Policy (attached as appendix 1) for the Council and the proposed approach to consultation and implementation.

The council currently have in place various service specific enforcement policies and procedures.

The proposed corporate policy will ensure there is a consistent approach to enforcement and prosecution by the council and any other organisation delivering regulatory/enforcement services on behalf of the council. Therefore ensuring Council compliance with the Cabinet Office Enforcement Concordat and the Statutory Code for Regulators introduced in 2014.

## **Recommendations**

### **That the Committee**

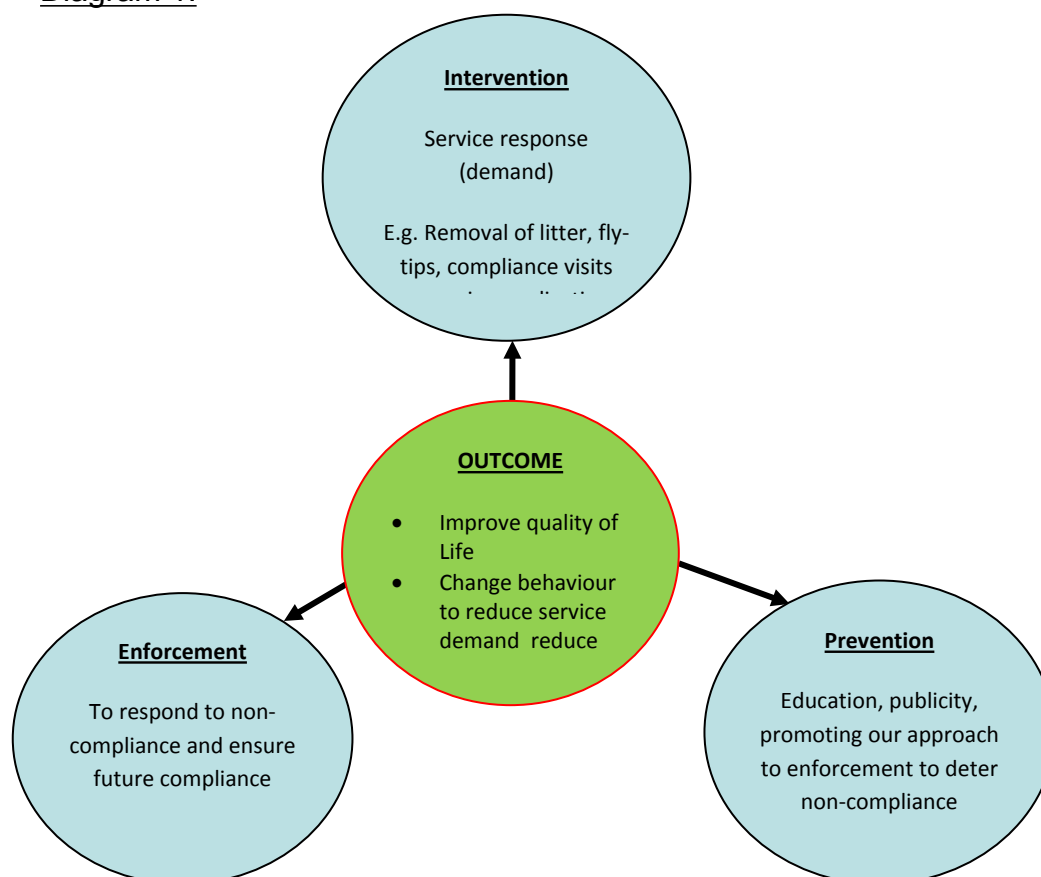
- 1. Note the need for and confirm its support for a Corporate Enforcement and Prosecution Policy.**
- 2. Provide comments on the draft Enforcement and Prosecution Policy.**
- 3. Agree the consultation approach proposed, as set out in paragraph 4.1.**
- 4. Agree the proposed approach to the implementation of this policy.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 Currently Barnet Council do not have a Corporate Policy on Enforcement and Prosecution. It is proposed that the draft policy, attached as appendix 1 to this report, applies to all council service areas including those that are delivered externally on behalf of Barnet Council.
- 1.2 The proposed corporate policy sets clear standards and the level of service and performance the public and businesses should expect to receive from the council.
- 1.3 A corporate policy is needed to ensure enforcement action taken by officers on behalf of the council, whether through the Council's delivery units, Re, Barnet Group or commissioned providers, is consistent and in line with the Cabinet Office Enforcement Concordat and the Statutory Code for Regulators introduced in 2014.
- 1.4 In 2015 officers in the Environment Commissioning Group considered how the council could improve its approach to change resident, business and staff behaviour to achieve the following outcomes:
  - Improve the environmental quality of the borough, improving quality of life for residents and reducing the fear of crime.
  - Reduce the demand for council services (therefore the reducing cost of services) by changing resident behaviour and enabling residents and businesses to take greater personal and civic responsibility.

- 1.5 Through this initial work it was clear that in order to achieve the outcomes above the council would need to take a balanced approach across Prevention, Intervention and Enforcement as shown in Diagram 1.

Diagram 1:



- 1.6 The key principles for an enforcement policy (set out in the Enforcement Concordat) are that the council/regulators will:
- draw up clear standards, setting the level of service and performance the public and businesses can expect to receive;
  - deal with the public and businesses in an open and honest way;
  - provide courteous, efficient and a helpful service;
  - respond promptly and positively to complaints about the service;
  - ensure enforcement action is proportionate to the risk; and
  - carry out duties in a fair, equitable and consistent manner
- 1.7 The Statutory Code for Regulators sets out the minimum standards for enforcement procedures in that regulators will:
- carry out their activities in a way that supports those they regulate to comply and grow;

- provide simple and straightforward ways to engage with those they regulate and hear their views;
- base their regulatory activities on risk;
- share information about compliance and risk;
- ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
- ensure that their approach to their regulatory activities is transparent

### **How the Council will respond to Compliance and Non-Compliance**

1.8 Compliance will be managed through carrying out inspections.

1.9 Non-compliance will be managed through:

- i. Pro-active education programmes
- ii. Explaining legal requirements (where appropriate)
- iii. Discuss and consider alternative means (where appropriate)
- iv. Service of letters, warnings, statutory notices or prohibitions

1.10 Enforcement actions will include and not be limited to:

- i. formal cautions
- ii. seizure of documents and goods
- iii. closure of premises
- iv. cautions
- v. prosecution and/or injunctions

1.11 The Council's scheme of delegation and/or committee delegation will authorise which authority has the power to authorise and use Council legislation.

## **2. REASONS FOR RECOMMENDATIONS**

2.1 To provide members with an opportunity to comment on the proposed Enforcement and Prosecution Policy.

2.2 To seek agreement to proceed with community consultation of the draft policy.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

3.1 Option to do nothing.

This option would lead to the risk of Barnet Council applying an inconsistent approach to enforcement and prosecution and the potential risk of non-compliance with the Cabinet Office Enforcement Concordat and the Statutory Code for Regulators introduced in 2014. It could also give rise to cases of judicial

review from those the Council seeks to use enforcement against as a result of not following the Statutory Code.

- 3.2 Option to merge all existing service specific enforcement and prosecution policies and procedures into a single document.

This option would result in a very long policy and procedure as the service specific enforcement and prosecution policy and procedures rely on different legislation, powers and processes. The document would be too long and complex for the general public and officers to readily understand and apply. It would also confuse ownership and accountability of the various policies and procedures.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 Following the 28 June 2016 Policy and Resources Committee and member authorisation to go out to consultation of the Enforcement and Prosecution Policy, officers will:

- Deliver consultation between July – September 2016
- Conduct and equalities impact assessment
- Present report to the December Policy and Resources Committee on the consultation feedback, equalities impact assessment and seek agreement of the final policy.

- 4.2 The policy will be brought back to the Committee for approval in December with the results of consultation and If the policy is agreed by the Committee in December 2016 officers will:

- i. Conduct a self-assessment/internal audit of all current enforcement policies and procedures and their implementation to ensure they are in line with the corporate policy and through this process make all relevant teams aware of the new policy.
- ii. Review relevant authority under the scheme of delegation and applicable constitution sections to ensure authority for decision-making is clear.
- iii. Review the public facing information ensuring it is compliant and link to all the council enforcement procedures and policies.
- iv. Develop a performance management framework to capture the enforcement data at an operational and strategic level, reporting back annually to the Policy and Resources Committee on performance of the policy.
- v. Consider how the impact of enforcement taken can be measured for example impact on service demand (should be reduced), costs and where relevant impact on community confidence and perception of crime and anti-social behaviour (including environmental crime).

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 The Council's Corporate Plan 2015-20 sets out the following strategic objectives:

That Barnet Council, working with local, regional and national partners, will strive to make sure that Barnet is the place:

- Of opportunity, where people can further their quality of life.
- Where responsibility is shared, fairly.
- Where people are helped to help themselves, recognising that prevention is better than cure.
- Where services are delivered efficiently to get value for money for the taxpayer.

5.1.2 Agreement of this policy will ensure the approach to compliance and enforcement is fair and transparent and that the responsibility of being compliant is equally shared across the council, residents and businesses.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 This report is about setting a policy to ensure all enforcement action taken is consistent. There are no financial implications as a direct result of establishing the policy.

5.2.2 The performance management framework, that will capture the enforcement and prosecution data from service areas, will enable the council to monitor the impact of the policy in reducing demand upon enforcement services and ultimately costs.

### **5.3 Legal and Constitutional References**

5.3.1 In drafting enforcement policies the Council is required to have regard to the statutory guidance in the Regulators Code

5.3.2 Council Constitution, Responsibility for Functions Annex A sets out that the terms of reference of Policy and Resources Committee includes 'To be the principal means by which advice on strategic policy and plans is given and co-ordinated' and 'To be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council'.

## **5.4 Risk Management**

- 5.4.1 Legal services have been consulted on the draft Enforcement and Prosecution Policy to ensure it accurately represents the statutory powers of the Local Authority and relevant codes of compliance to reduce the risk of legal challenge.

## **5.5 Equalities and Diversity**

- 5.5.1 The general duty on public bodies is set out in Section 149 of the Equality Act 2010.

- 5.5.2 A public authority must, in the exercise of its functions, have due regard to the need to —

(a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 5.5.3 The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

- 5.5.4 Enforcement and prosecution action has the potential to affect all equalities groups. An equalities impact assessment will be conducted to identify potential impact. The development of the performance management framework for enforcement and prosecution could also capture data on the protected characteristics to measure impact.

## **5.6 Consultation and Engagement**

- 5.6.1 Consultation will be required as this is a new policy consultation will be required as it may have an impact on residents and other stakeholders. Given the policy is generic it is proposed that the consultation is conducted by inviting comments through an open question through an online questionnaire. This will be added to the council's consultation forward plan.

## 6. Background Papers

Recent papers to various committees on enforcement and some examples of web links to the council's service specific enforcement actions are listed below.

Street Scene Enforcement Policy and Procedure

<https://barnet.moderngov.co.uk/documents/s30193/Streetscene%20Enforcement.pdf>

Moving Traffic Conventions

<https://barnet.moderngov.co.uk/documents/s23696/Moving%20Traffic%20Contraventions.pdf>

Planning enforcement

<https://www.barnet.gov.uk/citizen-home/planning-conservation-and-building-control/planning-enforcement.html>

HMO Licensing

<https://barnet.moderngov.co.uk/documents/s29179/Additional%20Licensing%20Scheme%20for%20Houses%20in%20Multiple%20Occupation.pdf>

Parking Enforcement

<https://www.barnet.gov.uk/citizen-home/parking-roads-and-pavements/parking/parking-enforcement.html>

Trading Standards and licensing enforcement complaints

<https://www.barnet.gov.uk/citizen-home/business/forms/Trading-Standards-Licensing-enforcement-complaints.html>

Barnet Enforcement locations

<https://www.barnet.gov.uk/citizen-home/parking-roads-and-pavements/parking/moving-traffic-contraventions/driving-rules.html>

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