

	<h2>Policy & Resources Committee</h2> <h3>22nd February 2023</h3>
<p style="text-align: right;">Title</p>	<p style="text-align: center;">Enforcement and Prosecution Policy</p>
<p>Report of</p>	<p>Executive Director of Assurance</p>
<p>Wards</p>	<p>All</p>
<p>Status</p>	<p>Public</p>
<p>Urgent</p>	<p>No</p>
<p>Key</p>	<p>Yes</p>
<p>Enclosures</p>	<p>Appendix 1 - Updated Enforcement and Prosecution Policy Appendix 2 – Equalities Impact Assessment</p>
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Summary

Barnet's current 'Enforcement and Prosecution' policy was last reviewed in 2017 and it does not include some council services, nor contracted services, such as Regional Enterprise (Capita), all of whom have been operating under their own set of policies and procedures.

In the intervening years up to now, the socio-economic conditions and ways of working have changed significantly. The COVID-19 pandemic has had significant economic impacts on society, businesses and individuals, changing for example, the way in which businesses operate, increased remote working, changes in regulatory requirements, all presenting increased opportunities and incentives for non-compliance. With risks and challenges created by the rapid

and radical regulatory changes resulting from the pandemic, a review of the current policy is, therefore necessary, to ensure that the council has in place an **overarching enforcement and prosecution policy** that is relevant, up-to-date, and fit for purpose. As well as to ensure that all enforcement teams have the best approach for the borough that will deliver effective advice and protection for residents and businesses.

Furthermore, the return of contracted enforcement and prosecution services to the council as of the 1st April 2023, means that it is timely, and imperative, for the council to put in place measures to formalize and align the enforcement approach across the organisation, bringing together the range of enforcement and prosecution functions under a council-led structure for service delivery.

The council has commenced a wider review 'enforcement' which is a broad and complex review and as such will be delivered in a two-phase approach, as follows:

Phase 1 August 2022 – March 2023

- To undertake information gathering from across the council departments/contracted services, to collate information on how enforcement / prosecution actions are currently delivered. This will provide valuable insight and overview of the council's current approach and could lead to recommendations and actions for service improvement (as part of the review) as well as inform the update to the overarching policy.

Phase 2 March 2023 – September 2023

- To implement any recommendations and actions arising from the Phase 1 review for service improvements in relation to standardising and formalising processes and procedures, including a review of enforcement case management and intelligence systems.
- To explore opportunities for different operational models, that challenge the current ways of working, to ensure that enforcement teams have the best approach for the borough.
- To ensure that (where required) specialist training is delivered across services to ensure that enforcement and prosecution activities are compliant with the corporate policy, overarching legislation and good practice - particularly for contracted services returning to the council.
- To liaise with partners including the Police services to ensure effective multi-disciplinary collaboration and deployment.

With the return of contracted services to the council, there is a need to standardise the approach to enforcement and prosecution activity across the organisation, and to also ensure compliance with regulatory, legislative and best practice requirements.

The updated overarching Enforcement and Prosecution Policy (EAPP), as set out in Appendix 1, seeks to standardise and bring together all existing enforcement and prosecution policies. It will

apply to all council service areas and in some cases, where necessary due to the precise nature of the work, will be supplemented by more detailed service specific enforcement policies and procedures that will align with the overarching EAPP.

Included in the term 'enforcement' are advisory and statutory visits to assist with compliance as well as licensing and formal enforcement action.

Officers Recommendations

- 1. That the Committee approves the implementation of the updated Enforcement and Prosecution Policy 2023 (appendix 1) with effect from 1st April 2023**
- 2. That the Committee considers the Equalities Impact Assessment (Appendix 2)**
- 3. That the Committee approves delegated authority to the Executive Director of Assurance to make necessary administration or updates as required to the EAPP.**

1. WHY THIS REPORT IS NEEDED

- 1.1 Barnet Council shares the view that effective and well targeted regulation is essential in promoting fairness and protection from harm and that as regulators we should adopt a positive and proactive approach towards ensuring compliance. This can be achieved by helping and encouraging those who are subject to regulatory and legal requirements to understand and meet those requirements more easily. Underlying this is the principle of responding proportionately to regulatory and legal breaches.
- 1.2 Barnet Council will take a more collaborative approach to those who comply with regulatory and legal requirements and those who work with us to achieve compliance. However, we will take all necessary enforcement action against those who commit serious and/or persistent breaches and offences and refuse to work with us to achieve compliance.
- 1.3 This EAPP will apply to all service areas of the Council and will be supported by additional service-specific policies/or procedures where required. Information about these service specific policies and procedures can be obtained from the relevant service areas and will be accessible on the council's website. Service specific policies include:
 - Planning and Building Control
 - Environmental Protection
 - Food safety & Standards, and Workplace Safety
 - Housing (private sector Houses in Multiple Occupation (HMO) and council managed housing)
 - Trading Standards
 - Licensing
 - Highways and Parking
 - Community Safety
 - Councils Anti-Fraud Team (CAFT)
- 1.4 The appropriate use of the full range of enforcement powers, including prosecution, is important, both to secure compliance with regulation and the law and to ensure that those

who have duties under it may be held to account for failures to safeguard health, safety and welfare or breach of regulations enforced by the Council.

- 1.5 The key principles of the council's overarching EAPP are in line with the Regulator's Code (2014) which requires provisions to ensure that the council will:
- have clear standards, setting the level of service the public and businesses can expect to receive.
 - deal with the public and businesses in an open and honest way.
 - provide a courteous, efficient, and helpful service.
 - respond promptly and positively to complaints about the service.
 - take an evidence-based approach to determine the risks.
 - ensure enforcement action is transparent, accountable, proportionate and consistent.
- 1.6 We also recognise that our local businesses and individual residents have a role to play in helping us achieve the objective set out above. Ultimately it is the responsibility of individuals and businesses to:
- comply with the Law and regulations;
 - address the negative impact their behaviour may have on the wider community and Barnet's environment;
 - prevent the unnecessary demand on public services;
 - avoid escalating costs to the council and the taxpayer as a result of addressing non-compliance.
- 1.7 This updated policy supports Barnet Council's objective of being a transparent and open council, in that it sets out publicly the council's intended approach to ensure continued compliance with regulatory and legal requirements.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The existing policy was last updated in 2017 and does not cover all council services and/or contracted services.
- 2.2 Additionally, as 'Regional Enterprise' (Capita) services return to the council on 1st April 2023, there is a need to standardise the approach to enforcement and prosecution activity and bring together the range of enforcement and prosecution functions under a council-led structure for service delivery.
- 2.3 The updated policy seeks to formalize a phased approach to enforcement activities carried out by all areas so that possible offences/breaches are dealt with in a consistent manner by relevant officers across the council. This will, not only delivery greater consistency in approach but also ensure that processes and procedures are written down and published for greater transparency.
- 2.4 To ensure teams have adequate capacity to carry out statutory enforcement activities as well as reactive and proactive operations and increased collaborative opportunities to counter existing and emerging threats.
- 2.5 The policy also identifies the requirement for officers carrying out enforcement activities to be fully trained and/or qualified and authorised to conduct such duties. It further identifies

the need for officers to be highly visible when conducting these activities to instil confidence and give assurance to both residents and businesses in the borough.

- 2.6 To ensure that collaboration and information sharing takes place between enforcement teams (as well as partners such as police and other law enforcement agencies) so that joined-up action can be taken, leading to improved productivity and enforcement outcomes.
- 2.7 To foster a culture of collaboration and sharing information and good practice between teams so that they can learn from a collective experience.
- 2.8 To ensure that members of the public have the information they need to report possible breaches/offences for the council to investigate, advise or take action.
- 2.9 To publicise good enforcement action to build public confidence in council enforcement.
- 2.10 It is therefore recommended that the committee approves this updated overarching policy to ensure that all enforcement and associated prosecution activity across the organisation are carried out in the prescribed manner and to the highest possible professional standards.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None.

4. POST DECISION IMPLEMENTATION

- 4.1 The EAPP will take effect from 1st April 2023.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The EAPP has been developed in line with the emerging Corporate Plan and will contribute towards the Safe and Attractive Neighbourhoods priority and realise the vision within. The outcomes achieved against this policy will be recorded by each individual service and reported through to the appropriate committee(s) in line with the council constitution.

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

- 5.2.1 Each service operates within its own set service budget and reports to the appropriate Committee.

5.2 Social Value

This updated policy brings together several different policies covering a wide range of enforcement and prosecution functions and aims to standardise the approach to enforcement and lead to high professional standards and positive outcomes for the

community.

5.3 Legal and Constitutional References

5.4.1 Under the councils' Scheme of Delegation, enforcement activities are delegated to appropriate officers to carry out enforcement action.

5.4.2 The policy refers to several legislations (referred to in the Appendix 1) for which the authority has the responsibility for enforcing within the borough.

5.4.3 Under the Council's Constitution, Article 7 the terms of reference of the Policy and Resources Committee includes the following responsibilities:

- (3) To be responsible for strategic policy, risk management, oversight of the organisation, performance and operational working of the Council including the following specific functions/activities: Local Plans (except for matters reserved to Full Council), ICT and Digital, Customer Services, Emergency Planning, Equalities, Diversity and Inclusion, Contract Monitoring and Management: Cross-organisation overview of contracts with contracts in the terms of reference of another theme committee being scrutinised by that committee, Performance Monitoring and Management: Cross-organisation overview of performance with performance in the terms of reference of another theme committee being scrutinised by that committee

5.4 Risk Management

5.5.1 The on-going work of enforcement officers supports the council's risk management strategy and processes. Where appropriate, outcomes from investigations will be reported to Risk Management to support their on-going work and to assist in either confirming effective enforcement controls and or suggested mitigating activities.

5.5 Equalities and Diversity

5.6.1 The Equality Act 2010 outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.6.2 Relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

5.6.3 The broad purpose of this duty is to integrate considerations of equality into day-to-day business and keep them under review in decision making, the design policies and the delivery of services.

5.6.4 These equalities duties have been fully accounted for in relation to the policy review and update.

- 5.6.5 An Equalities Impact Assessment has been carried out (see appendix 2) which will help to ensure that:
- we understand the potential effects of the policy by assessing the impacts on different groups both external and internal;
 - any adverse impacts are identified, and actions identified to remove or mitigate them; and that,
 - decisions are transparent and based on evidence with clear reasoning.

5.6 Corporate Parenting

- 5.7.1 In 2016 the government developed a set of corporate parenting principles. These are:
- to act in the best interests, and promote the physical and mental health and well-being, of those children and young people.
 - to encourage those children and young people to express their views, wishes and feelings.
 - to consider the views, wishes and feelings of those children and young people.
 - to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners.
 - to promote high aspirations, and seek to secure the best outcomes, for those children and young people.
 - for those children and young people to be safe, and for stability in their home lives, relationships and education or work.
 - to prepare those children and young people for adulthood and independent living.
- 5.7.2 The updated policy supports these principles by bringing together and standardising all existing enforcement and prosecution policies. It will apply to all council service areas and in some cases will be supported by more detailed service specific enforcement policies and procedures.

5.7 Consultation and Engagement

- 5.7.1 None required due to the fact this policy brings together all existing enforcement and prosecution policies.

5.8 Insight

- 5.8.1 N/A

5.10 Environmental Impact

- 5.10.1 This policy will have a positive impact on the environment as clearer and consolidated enforcement processes and procedures contribute towards ensuring that Barnet cares for our People, Places and Planet.

6 BACKGROUND PAPERS

- 6.1 Policy & Resources Committee, 21 March 2017 paper entitled '[Corporate Enforcement and Prosecution Policy](#)'
 - 6.2 Policy and Resources Committee 28 June 2016 paper entitled 'Enforcement and Prosecution Policy' [Barnet Draft Corporate Enforcement and Prosecution Policy.pdf \(modern.gov.co.uk\)](#)
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