

PART A

Report to: Licensing Committee
Date of meeting: 8 July 2021
Report of: Business Compliance Officer
Title: Community Protection Compliance Policy 2021-2026

1.0 **Summary**

- 1.1 Community Protection is responsible for ensuring compliance with legislation relating to areas such as anti-social behaviour, environmental protection, housing, food safety, licensing and health and safety at work. The council approves, and from time to time reviews policies on how the section should approach compliance and how legislation should be enforced in a proportionate and consistent manner.
- 1.2 The current Environmental Health and Licensing Compliance Policy must be reviewed and implemented by September 2021.
- 1.3 This report sets out the framework of that review and includes a revised Compliance Policy for members’ consideration prior to public consultation.

2.0 **Risks**

2.1

Nature of Risk	Consequence	Suggested Control Measures	Response (Treat, tolerate, terminate, transfer)	Risk Rating (the combination of severity and likelihood)
Not reviewing policy beyond July.	Existing policy contains outdated information	Consult on adoption of new policy.	Treat	12

Retaining existing policy without changes.	Risk that any future compliance action can be challenged and may be difficult to justify or explain. Confusion among residents, visitors and businesses as to what is expected in terms of compliance in Watford.	Consult on adoption of new policy.	Treat	12
Failure to undertake sufficient public consultation.	Negative perception of council and regulatory functions, and challenge through the courts.	Ensure that any proposed policy is subject to thorough public consultation and considered again by the committee before any proposed changes are adopted.	Treat	2

3.0 Recommendations

- 3.1 That the Community Protection Compliance Policy 2021-2026, set out at appendix 1, be approved for public consultation.

For further information on this report please contact:

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Report approved by: Justine Hoy, Head of Community Protection

4.0 Background

- 4.1 The council is the primary enforcement body for a range of legislation which applies to:

- anti-social behaviour
- environmental protection and pollution
- statutory nuisances such as noise, vibration and light
- infectious diseases
- filthy and verminous premises
- littering, fly-tipping and other environmental crimes
- health and safety at work
- gambling
- alcohol, entertainment and late-night refreshment
- taxis and private hire vehicles
- street trading
- houses in multiple occupation
- charity collections
- food hygiene
- housing standards
- dog fouling and dangerous dogs
- drainage
- animal welfare
- pest control
- abandoned vehicles
- smoke-free legislation.

4.2 When exercising those functions the council has the option to use a wide variety of powers including, but not limited to:

- Inspections
- Closures of commercial and private premises
- Issuing legally binding notices
- Interviewing people under caution
- Issuing fixed penalty notices
- Issuing Community Protection Warnings and Notices
- Imposing other financial penalties
- Withdrawing, amending or refusing permissions
- Issuing formal cautions
- Taking civil legal action or instituting criminal proceedings (prosecutions).

4.3 This council, and many other councils, delegate these powers to council officers with the exception of review powers under the Licensing and Gambling Acts. The Compliance

Policy sets out the expectations of how the various powers are to be exercised by officers on the council's behalf.

4.4 When undertaking work to ensure compliance with regulations or legislation the council has responsibilities under the Regulators' Code to ensure that any efforts are risk based and proportionate. This responsibility includes having regard to the Code when determining any general policy or principles about the exercise of specified regulatory functions. Paragraph 6.2(d) of the Code says regulators should publish a policy showing their approach to compliance. The full Code is at Appendix 2.

4.5 Publication of the Code and Policy make it clear to everyone involved the operational parameters within which legal powers ought to be exercised. It acts as a safeguard against abuse or over-zealous use of those powers. In addition, Regulators across Hertfordshire have signed up to a voluntary charter, the Better Business for All Charter, which sets out what businesses can expect in relation to compliance services (Appendix 3).

5.0 Existing Enforcement Policy, New Compliance Policy and Rationale for Change

5.1 The first Environmental Health and Licensing Enforcement Policy was created in 2011. The existing Environmental Health and Licensing Compliance Policy was adopted on 19 September 2016 (Appendix 4).

5.2 Whilst the majority of the current policy is retained in terms of the approach that officers are required to take when dealing with compliance issues, there are a number of changes to the existing policy which are proposed in the new policy and these are outlined in section 6.1. The proposed new policy is attached as Appendix 1.

5.3 It should be noted that the council always retains the right to depart from the policy should circumstances require it. Such circumstances may be when the offence is so serious, for example loss of life, or the offender is likely to flee or any other time if justifiable, reasonable and proportionate.

5.4 The aim of this policy remains to ensure that the council can show a robust and clear procedure that allows good businesses to grow, does not unnecessarily or disproportionately penalise any person who breaches regulations, and allows officers to take a risk based approach to ensuring compliance. Such a policy safeguards the council as well as those who the council regulates.

6.0 Key changes to the existing policy

6.1 The main changes to the existing policy are as follows:

- Updating information on the government departments responsible for regulatory issues. For example, in January 2018 the Office for Product Safety replaced Regulatory Delivery as part of the Department for Business, Energy and Industrial Strategy.
- Updating of corporate objectives.
- Change to legislation listed in the policy. There have been some legislative changes since the adoption of the previous policy in 2016.
- The inclusion of further detail concerning the council's procedural safeguards that are in place when investigating and prosecuting offences.
- Section 6.10 of the existing policy detailed the specific approach officers will take when dealing with licensing offences, notably, taxi or private hire licensing offences. Following application of the current approach, particularly in regard to driver licence suspensions, the policy has been redrafted to take account of new safeguarding requirements, comment from the courts on the policy, and in line with new guidelines issued by the Department for Transport in July 2020.

7.0 Public Consultation

7.1 It is proposed that this updated policy be put out for public consultation between 12 July 2021 and 23 August 2021. A further report will be brought back to the committee on 30 September with the outcome of the public consultation and to consider the formal adoption of the policy after having regard to any comments received.

8.0 **Implications**

8.1 **Financial**

8.1.1 The Shared Director of Finance comments that any financial implications can be met from existing budgets

8.2 **Legal Issues** (Monitoring Officer)

8.2.1 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report and the proposed policy.

8.3 **Equality Impact Assessment**

8.3.1 An impact assessment on the proposed consultation has been undertaken and can be found at appendix 5

Appendices

Appendix 1 – Proposed Community Protection Compliance Policy 2021-2026

Appendix 2 – Regulators Code

Appendix 3 – Better Business for All Charter, Hertfordshire

Appendix 4 – Existing Environmental Health and Licensing Compliance Policy

Appendix 5 – Equality Impact Assessment for Consultation period

Background Papers

None