

**Guildford Borough Council**

Regulatory Enforcement Policy

# Document Information

|  |  |
| --- | --- |
| Origination/author: | Compliance Lead |
| Policy Owner – Service: | Environmental and Regulatory Services |
| This document replaces: | Regulatory Enforcement Policy, approved on 2 January 2018 |
| Committee approval: | 22 September 2022 |
| Last Review Date: | 2 January 2018 |
| Next Review Date: | 2025 or earlier if legislation change requires a review |

# Contents

|  |  |
| --- | --- |
| **Section** | **Content** |
| 1 | Purpose |
| 2 | Legal and Policy Context |
| 3 | Our Approach |
| 4 | Achieving Compliance |
| 5 | Enforcement action |
| 6 | Public Space Protection Orders |
| 7 | Fixed Penalty Notices |
| 8 | Civil Penalty Offences |
| 9 | Works in default |
| 10 | Authorisation of Officers |
| 11 | Status and Review |
| 12 | Complaints |
| Appendix 1 | Glossary of Legislation |
| Appendix 2 | Equalities Impact Assessment |
| Appendix 3 | Enforcement Policy Consultation Feedback |

# 1. Purpose

* 1. The Regulatory Enforcement policy contributes to the Corporate Plan 2021-2025 and its strategic themes of Community and Environment by providing a regulatory framework that supports economic prosperity by providing a level playing field for businesses to thrive whilst protecting residents, workers and visitors to the Borough.
  2. This policy sets out the Council’s approach to securing compliance with regulatory requirements and applies to all our regulatory functions. It applies to all services where the Council can enforce against a person, organisation or company to make them comply with the law. Any services where the Council has a legal duty or power to ensure compliance are included. Services that are relevant to a Borough Council include, but are not limited to:

1. Abandoned Vehicles
2. Animal Welfare
3. Environmental Health including statutory nuisance, food safety, health and safety, public health, infectious diseases, and contaminated land
4. Environmental Permitting
5. Housing: Private rented sector and Council tenants
6. Licensing including Hackney Carriage, Private Hire Vehicle, Premises and Street Trading
7. Development Management and Building Control
8. Planning Enforcement
9. Waste offences including dog fouling, fly tipping and littering
10. Anti-social behaviour relating to the above subjects and in relation to the enforcement of Public Space Protection Orders.
11. Anti-social behaviour relating to the above and in relation to Community Triggers
12. Revenues and benefits
13. Unauthorised encampments

1.2 More detailed service specific enforcement options in respect of particular areas such as health and safety, food safety, licensing, housing, planning and building control will be set out in service specific policies under the umbrella of this corporate policy.

1.3 This policy and service-specific enforcement policies have, and will continue to have, regard to the statutory Regulators' Code, issued by the Minister of State for the Department for Business, Innovation and Skills (formerly the Department for Business, Enterprise and Regulatory Reform) under section 22(1) of the Legislative and Regulatory Reform Act 2006 (“the Act”).

1.4 It is ultimately the responsibility of individuals and businesses to comply with the law.

# 2. Legal and Policy context

2.1 Section 21 of the Act requires the Council to have regard to the way it carries out regulatory functions and to do so in a way which is transparent, accountable, proportionate, consistent and targeted at cases where action is needed.

2.2 Section 22 of the Act requires us to have regard to the Regulators’ Code in determining any general policies or principles by reference to which we exercise regulatory functions.

# 3. Our Approach

3.1 Effective and well-targeted regulation is essential in promoting fairness, protection from harm and protecting the amenity of the area. Our aim is to work in a transparent, accountable, proportionate and consistent way, to assist individuals and businesses to comply with relevant legislation.

3.2 We do this by:

* helping and encouraging regulated bodies, businesses and individuals to understand and meet regulatory requirements more easily; and
* responding proportionately to regulatory breaches.

3.3 We will normally take a supportive approach to achieving compliance with regulatory requirements, especially with those who take positive steps/actions and actively take steps to achieve compliance. Where required, however, we will consider the use of all necessary and proportionate enforcement action against those who commit serious breaches, flout the law, or take no steps to achieve compliance in a timely manner.

3.4 Compliance services will carry out their duties in support of the Council’s strategic aims and objectives, which are drawn up in consultation with the public and are set out in:

* The Corporate Plan and strategic decisions
* Corporate priorities
* Service-specific service plans and inspection polices, which reflect the above priorities as well as the statutory enforcement functions for each service.

# 4. Achieving Compliance

4.1 We undertake a range of activities to help achieve compliance with legislation. These include:

* Provision of advice and guidance;
* Training and education;
* Programmed and responsive inspections;
* Intelligence led inspections and investigations:
* Responding to complaints;
* Sharing intelligence and resources with our partners; and
* Area patrols.

4.2 Where we discover non-compliance, the options to promote/seek compliance will include:

* undertaking pro-active educational activities;
* explaining legal requirements and, where appropriate, the means to achieve compliance;
* providing an opportunity to discuss points in issue where appropriate;
* consideration of alternative means and reasonable timescales to achieve compliance;
* service of advisory letters, warnings, statutory notices or prohibitions detailing non-compliance and requiring action to be taken to achieve compliance;
* consideration and consultation on the implementation of a Public Space Protection Order to offer flexible enforcement tools; and
* enforcement actions including, but not limited to, formal caution, seizure of documents or goods, closure of premises, fixed penalty notices, civil enforcement penalties, eviction of unauthorised encampments, prosecution and/or injunction.

4.3 We are unable to offer legal advice and will advise individuals and businesses to seek their own, independent, legal advice.

4.4. Whilst we aim to assist individuals and businesses to comply, we may take immediate, without notice, enforcement action where this is deemed necessary, reasonable and proportionate.

# 5. Enforcement action

5.1 Where we discover non-compliance, the decision about the most appropriate enforcement action will be made on a ‘case by case’ basis and in accordance with this policy, legislation, statutory guidance and any service specific procedures that are relevant.

5.2 Enforcement decisions and actions will be made with due regard to the provisions of:

* + - the Human Rights Act 1998
    - the Crime and Disorder Act 1998
    - Anti-social Behaviour, Crime and Policing Act 2014
    - Equality Act 2010
    - service-specific legislation
    - all other relevant legislation applicable from time to time

5.3 We aim to relate the level of enforcement action to the risks presented. The action we take will be proportionate to the seriousness of the breach and in reaching a decision we will consider:

* the risk that non-compliance poses to the safety, health, or economic welfare of the public or individuals;
* the effect on the environment or community;
* evidence that suggests that there was pre-meditation in the commission of an offence;
* whether the offence involved a failure to comply in full or in part with the requirements of a statutory notice or order;
* whether there is a history of previous warnings or the commission of similar offences;
* aggravated circumstances such as obstruction of an officer or aggressive behaviour towards the public;
* whether the offence, although not serious, is widespread in the area where it is committed and enforcement action will help dissuade others from committing the same offence;
* the gravity of the alleged offence, taken together with the seriousness of any actual or potential harm;
* the general record and approach of the offender;
* whether there has been reckless disregard of requirements;
* whether there has been a repetition of a breach that was subject to previous warning or formal action; and/or
* whether false information has been supplied willfully, or there has been an intent to deceive.

5.4 Consideration will be given to the appropriateness of serving Community Protection Warnings in relation to behaviour and/or offences of an on-going nature with a view to improving future conduct.

5.5. Any decision to prosecute will be taken in accordance with the Code for Crown Prosecutors and in line with this policy.

5.6. Where we take legal action, we will normally seek to recover the costs of doing so.

5.7. Information concerning non-compliance may be shared with other enforcement agencies. Any such action will only be undertaken in the public interest and in compliance with the Data Protection Act 1998. For example, banned taxi and/or private hire vehicle drivers will be shared with the Local Government Association for inclusion on their [National Register of Taxi and Private Hire Licence Revocations and Refusals.](https://www.local.gov.uk/topics/licences-regulations-and-trading-standards/national-register-taxi-and-private-hire-licence) Where a landlord of a property agent has received a banning order, the Local Authority must make an entry onto the [Database of rogue landlords and property agents under the Housing and Planning Act 2016](https://www.gov.uk/government/publications/database-of-rogue-landlords-and-property-agents-under-the-housing-and-planning-act-2016).

5.8. Wherever possible and appropriate we will co-ordinate visits and enforcement action with other services and agencies.

# Public Space Protection Orders

* 1. Due to the nature and complexity of behaviours encompassed within the definition of *anti-social behaviour*, the responsibility for dealing with it is often shared between agencies including: the police, councils and social landlords. Section 59 of the Anti-social Behaviour Crime and Policing Act 2014 empowers Councils to create and enforce Public Spaces Protection Orders (PSPOs) in consultation with the public and its partners. A PSPO can give local Councils and police additional powers to tackle anti-social behaviour in specific locations to regulate activities that are having a detrimental effect on the local community.
  2. Two conditions must be met:
     1. activities carried on in a public place within the authority’s area have had, or likely to have, a detrimental effect on the quality of life of those in the locality; and
     2. the effects, or likely effects, of the activities:

1. is, or is likely to be, of a persistent or continuing nature; and/or
2. is, or is likely to be, such as to make the activities unreasonable; and/or
3. justifies the restrictions imposed by the Order.
   1. Please see the link to [Guildford Borough Council’s current PSPOs](https://www.guildford.gov.uk/pspo).
   2. The aim of the PSPO is to provide officers with additional tools to deal with anti-social behaviour when they witness it. When supported by appropriate evidence that the PSPO has been breached, for example, an officer directly witnessing a breach and the offender being accurately identified, the Council, or its partners, will consider serving a Fixed Penalty Notice (FPN) to the responsible individual. A Community Protection Warning (CPW) may also be issued at the same time.
   3. Where breaches occur by those under the age of criminal responsibility and under the age of 16 years, parents or guardians will be informed as well as any relevant Services, such as Children and Families. The appropriateness of issuing a CPW to the parent and/or guardian in these circumstances should be considered.
   4. Where a person has breached the PSPO for a second time, a Fixed Penalty Notice may be served on the responsible individual. A Community Protection Notice (CPN) will also be considered at the same time. A referral to the multi-agency Community Harm and Risk Management Meeting (CHaRMM) should be considered at this stage. CHaRMM would discuss and agree potential actions to reduce the negative impact that problem individual(s) are having on the community through their anti-social behaviour.
   5. A third breach of the PSPO and subsequent breach of the CPN will prompt consideration of legal proceedings, including the application to the courts for a Criminal Behaviour Order. Breach of a Criminal Behaviour Order may result in immediate arrest and imprisonment of the offender.

# 7. Fixed Penalty Notice Offences

7.1 We carry out a range of enforcement duties where legislation prescribes fixed penalty offences. Paying a fixed penalty for criminal offences, such as fly tipping or littering, is an admission that an offence has been committed but avoids the need for an individual to be prosecuted, for which they would receive a criminal conviction.

7.2 Where we have evidence that an offence has been committed, we will normally issue a fixed penalty notice, if applicable, unless there are exceptional circumstances to justify not doing so.

7.3 Where penalties are not paid, we will normally prosecute for the offence.

7.4 Any income from the issue of fixed penalty notices will be used to support enforcement activities.

# 8. Civil Penalty Offences

8.1 The Council has the power to impose civil penalties as an alternative to prosecution for certain offences. For example, it may be more appropriate to use civil injunctions against known individuals who persistently breach PSPOs or persistently trespass on Council land.

8.2 Where a civil penalty is applied, the level of penalty will be determined using the relevant charging structure, developed in accordance with the guidance issued to local authorities and approved by the Council.

# 9. Works in Default / Direct Action

9.1 Where we carry out works in default or direct action for non-compliance with statutory notices or in the case of an emergency, we will seek to recover the full cost of these works including the cost of time, materials or reports associated with the works.

# 10. Authorisation of Officers

10.1 Delegation of powers to enforcement officers is in accordance with the scheme of delegation within the Council’s Constitution.

10.2 Only officers who are competent through training, qualification and/or experience will be authorised to take enforcement action and are required to show their written authorisation on demand. Officer authorisations will be reviewed annually to ensure that they are up to date.

10.3 Officers will also have sufficient training and understanding of this enforcement policy to ensure a consistent approach to their duties.

# 11. Status and Review

11.1 This policy was adopted by the Executive on pending 22 September 2022.

11.2 This policy will be reviewed every three years, or sooner if there are substantial legislative changes to the legislative framework.

11.3 Any changes or reviews to this policy will be approved by the Executive.

# 12. Complaints

12.1 Any dissatisfaction with enforcement action taken should initially be discussed with the officer, as there are often genuine misunderstandings that can be resolved.

12.2 If this does not achieve a resolution then complaints concerning the application of this enforcement policy will be dealt with in accordance with the Council's customer complaints procedure. Details of the procedure are available on the Council’s website: [Make a complaint to the council - Guildford Borough Council](https://www.guildford.gov.uk/article/24733/Make-a-complaint).

# 13. Measurement and Impact

13.1 Our enforcement activities will be monitored through the annual service planning process and related performance management systems.

13.2. All enforcement related procedures and decisions will be in line with this policy. In exceptional circumstances, where there is a justifiable reason to step outside this policy, the rationale for any decision will be fully documented and approved by the relevant Head of Service or Portfolio Holder in line with Guildford Borough Council’s Constitution.

13.3. Complaints against our services will be used as an opportunity, where appropriate, to review our policies and procedures to ensure that they: do not have any unintended consequences; and are fair and equitable to all our service users.

13.4. Following the introduction of PSPOs, the impact on the issues that they were designed to redress will be reviewed periodically and Members informed.

# 14. Equalities

14.1. We recognise that we serve a diverse community that has diverse needs. We regard diversity as a strength in our community and we will work hard to ensure that the community that we serve, whether residents or visitors to our Borough, face no unjustifiable barriers in accessing our services and those that others provide on our behalf.

When making decisions and setting policies, the Council has a statutory duty under Section 149 of the Equality Act 2010, ‘the Public Sector Equality Duty’, to have due regard to the need to:

1. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
2. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
3. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Please see Annex 2 for the Equalities Impact Assessment for this policy.

# Appendix 1: GLOSSARY OF LEGISLATION

All enforcement activities, including investigations and formal actions, will be conducted in compliance with delegated statutory powers and codes of practice made under this legislation in so far as they relate to the Council’s enforcement powers and responsibilities. Legislation and guidance include, but is not limited to:

* Regulators Code 2014
* Anti-Social Behaviour, Crime and Policing Act 2014
* Code for Crown Prosecutors
* Co-ordination of Regulatory Enforcement (Procedure for References to LBRO) Order 2009 SI670/2009 (The CRE LBRO Order)
* Crime and Disorder Act 1998
* Criminal Justice and Police Act 2001
* Criminal Procedure and Investigations Act 1996
* Data Protection Act 2018
* The Enforcement Concordat: Good Practice Guide for England and Wales
* Human Rights Act 1998
* Legislative and Regulatory Reform Act 2006 (LRRA)
* Legislative and Regulatory Reform (Regulatory Functions) Order 2007
* Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2009
* Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2011
* Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2014
* Police and Criminal Evidence Act 1984
* Primary Authority: A guide for Local Authorities
* Protection of Freedoms Act 2012 (Code of Practice – Powers of Entry December 2014)
* Regulation of Investigatory Powers Act 2000
* Regulators’ Code, 6 April 2014 • The Regulatory Enforcement and Sanctions Act 2008 (The RES Act).
* Regulatory Reform Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009SI665/2009 (The CRE Enforcement Order).

# Appendix 2: Equality Impact Assessment

The purpose of an assessment is to understand the impact of the Council’s activities\* on people from protected groups and to assess whether unlawful discrimination may occur. It also helps to identify key equality issues and highlight opportunities to promote equality across the Council and the community. The assessment should be carried out during the initial stages of the planning process so that any findings can be incorporated into the final proposals and, where appropriate, have a bearing on the outcome.

*(\*Activity can mean strategy, practice, function, policy, procedure, decision, project or service)*

**Name of person completing the assessment:** Dympna Sanders

**Date of assessment:** 2 February 2022

**Name of the proposed activity being assessed:** Enforcement Policy Review

**Is this a new or existing activity?**

Existing

**Who will implement the activity and who will be responsible for it?**

Service Delivery Director will delegate authority to relevant Heads of Service and Lead Officers to implement this policy.

## Determining the relevance to equality

**What are the aims, objectives and purpose of the activity?**

The Enforcement Policy review aims to providing a regulatory framework that supports the economic prosperity of the Borough by providing a level playing field for businesses to thrive whilst protecting residents, workers and visitors to the Borough.

This policy sets out the Council’s approach to securing compliance with regulatory requirements for which GBC is responsible and applies to all our regulatory functions. It applies to all services where the Council can enforce against a person, organisation or company to secure compliance with the law.

**Is this a major activity that significantly affects how services or functions are delivered?**

The framework will apply to all of GBC’s regulatory functions, except civil parking enforcement.

**Who will benefit from this activity and how?**

Businesses, residents, workers and visitors to the Borough will be protected through this framework.

**Does it relate to a function that has been identified as being important to people with particular protected characteristics?**

No

**Who are the stakeholders? Does the activity affect employees, service users or the wider community?**

Businesses, residents, workers and visitors to the Borough. GBC’s partners including Surrey police and Surrey CC

## Based on the above information, is the activity relevant to equality?

**Yes**

### Is the proposed activity accessible for all the protected groups listed below?

*(Consider in what ways the activity might create difficulties or barriers**to parts of the workforce, community or protected groups. How might one or more groups be excluded**because of the activity?)*

|  |  |  |
| --- | --- | --- |
| **Protected groups** | **Yes/No** | **Evidence** |
| Disability | No | Should a person have mental health issues or learning difficulties that impair their judgement or make it difficult for them to understand the implications of a particular situation. |
| Race | No | According to the 2011 Census 92.6% of people living in Guildford Borough speak English as a first language. However, this may not be reflected in the workforce; owners of micro businesses; and visitors to the Borough. |
| Gender | Yes | n/a |
| Sexual Orientation | Yes | n/a |
| Age | No | n/a |
| Religion / Belief | Yes | n/a |
| Transgender / Transsexual | Yes | n/a |
| Marriage / Civil Partnership | Yes | n/a |
| Pregnancy / Maternity | Yes | n/a |

### Is it likely the proposed activity will have a negative impact on one or more protected groups?

|  |  |  |
| --- | --- | --- |
| **Protected groups** | **Yes/No** | **Evidence** |
| Disability | Yes | n/a |
| Race | Yes | n/a |
| Gender | No | This is a revised policy, no previous issues raised in relation to this group. |
| Sexual orientation | No | This is a revised policy, no previous issues raised in relation to this group. |
| Age | Yes | n/a |
| Religion or belief | No | This is a revised policy, no previous issues raised in relation to this group. |
| Transgender or transsexual | No | This is a revised policy, no previous issues raised in relation to this group. |
| Marriage and civil partnership | No | This is a revised policy, no previous issues raised in relation to this group. |
| Pregnancy or maternity | Yes | n/a |

### What action can be taken to address any negative impact? What measures could be included to promote a positive impact?

(*Consider whether it is possible to amend or change the activity due to the likely adverse impact whilst still delivering the objective. Is it possible to consider a different activity which still achieves the aims but avoids an adverse impact? Is an action plan required to reduce any actual or potential adverse impact?)*

#### Disability

The Council will ensure that any person with physical, mental health and/or learning disabilities are accompanied by a responsible person to assist and support their needs and understanding.

The Council will explore support services that may be available to support potentially vulnerable people through safeguarding referrals to MASH (Multi-Agency Support Hub) and/or CHaRMM (Community Harm Reduction Management Meeting) before escalating issues to prosecution.

The Council is undertaking a review of its website to improve the accessibility of information.

#### Race

Where English is not a person’s first language, there are a number of ways that we can seek to communicate with them informally:

* + - * + Seek assistance from colleague who speaks the relevant language;
        + Use mobile phone translation Apps; and / or
        + Use [Interpreting & Translation Services | LanguageLine UK](https://www.languageline.com/uk/s/).

Should an investigation require a formal interview, the Officer will ask the person being interviewed whether they need the assistance of an independent, registered interpreter to ensure that the person fully understands the implications of the process and to enable them to fully exercise their rights. The cost of this service will be paid for by the Council but may be added to the Council’s costs schedule should the matter being investigated go to court.

#### Age

Our policy is not to serve Fixed Penalty Notices to children under the age of 18 years.

Where there are persistent issues with a child breaking the law, other avenues will be explored prior to formal enforcement action, including:

* + - * + Safeguarding referrals through MASH and/or CHaRMM
        + Consideration of taking action against the parent and/or guardian of the child, where appropriate.

#### All Groups

The Council will always seek to behave in a reasonable and proportionate manner to all individuals and businesses with whom them interact. In following the Crown Prosecution’s criteria for prosecution decisions, all enforcement decisions will also be taken in light of the public interest test.

### What are the main sources of evidence that have been used to identify the likely impacts on the different protected groups?

(*Use relevant quantitative and qualitative information that is available from sources such as previous EIA’s, engagement with staff and service users, equality monitoring, complaints, comments, customer equality profiles, feedback, issues raised at previous consultations and known inequalities).*

Census 2011 information,

### Has any consultation been carried out (e.g. with employees, service users or the wider community)? Please provide details

This document forms part of the Enforcement Policy, which will be subject to public consultation.

### Is further consultation required as a result of any negative impact identified? If so, what groups do you intend to engage with and how?

To await feedback from consultation and will review as necessary.

### Conclusion of Equality Impact Assessment - please summarise your findings

Whilst there are some potential impacts to groups with special characteristics, particularly in relation to: disability, race and age, I believe that these have been mitigated so far as possible to enable individuals and businesses to understand their rights and to be treated fairly throughout our interactions with them.

**Name of person completing assessment:** Dympna Sanders

**Date:** 2 February 2022

**Job title:** Compliance Lead

**Signature: D. Sanders**

**Senior manager name:** Justine Fuller

**Date:** 12 July 2022

**Job title:** Head of Environment and Regulatory Services

**Signature:**

# Appendix 3: Enforcement Policy Consultation Feedback

## Do you agree with our approach to enforcement?

|  |  |
| --- | --- |
| **Answer choice** | **Response total** |
| Yes | 2 |
| Don’t know | 4 |
| No | 6 |

If no, explain your reasons:

|  |  |  |
| --- | --- | --- |
| **Number** | **Date and ID** | **Answer** |
| 1 | 22/04/2022 16:50 PM ID: 189870707 | Not applicable as answered 'Yes' |
| 2 | 23/04/2022 16:25 PM ID: 189907545 | Does the weasel-words mean that GBC will only enforce what it chooses to enforce, as against fully enforcing the appropriate regulations? |
| 3 | 24/04/2022 09:20 AM ID: 189920415 | There appears to be no real determination to sort out problems, particularly in the case of the fields at Wanborough where illegal encampments have been established |
| 4 | 24/04/2022 10:34 AM ID: 189922502 | ? |
| 5 | 29/04/2022 10:02 AM ID: 190316868 | Too focused on punishment, should be more about engaging and explaining. |
| 6 | 10/05/2022 12:13 PM ID: 191010451 | No As a resident I have not been treated fairly on two separate occasions. There seems to be a bias to some people and not others. |

### Response

Guildford Borough Council will take enforcement in line with this enforcement policy, underlined by the overarching principles of transparency, accountability, proportionality, consistency and the targeting of resources.

The policy is general and is not designed to include subject specific procedures by which enforcement action will be undertaken.

Wanborough Field is a specific case. The Local Enforcement Plan for planning enforcement is currently being reviewed and will be going out to consultation in the next few months. We would encourage those who feel that we have not dealt with issues effectively or expediently to use the Corporate Compliments and Complaints procedure to raise their dissatisfaction via: [Make a complaint to the council - Guildford Borough Council](https://www.guildford.gov.uk/article/24731/What-complaints-do-we-deal-with).

Only in the most serious cases will be go straight to formal enforcement action. For the majority of cases, we will enforce the law by offering advice and guidance. Guildford Borough Council wants to support individuals and businesses to comply with the law.

It is not possible to respond to feedback with details of the allegation where the individual was not treated fairly. We have a compliments and complaints procedure, and we would encourage those who feel that they have not been treated fairly to use this process to air their dissatisfaction.

## Does the proposed policy create the right balance between taking an informal and formal approach to enforcement?

|  |  |
| --- | --- |
| **Answer choice** | **Response total** |
| Yes | 2 |
| Don’t know | 4 |
| No | 6 |

If no, please outline how this balance could be redressed:

|  |  |  |
| --- | --- | --- |
| **Number** | **Date and ID** | **Answer** |
| 1 | 22/04/2022 16:50 PM ID: 189870707 | Not applicable as answered 'Yes' |
| 2 | 23/04/2022 16:25 PM ID: 189907545 | Who determines the 'right balance?' If Legislation exists and is breached than it should be enforced. |
| 3 | 24/04/2022 09:20 AM ID: 189920415 | You need to take real steps to stop fly tipping and illegal developments on land |
| 4 | 24/04/2022 10:34 AM ID: 189922502 | ? |
| 5 | 29/04/2022 10:02 AM ID: 190316868 | No - GNC should focus on educating and warning people rather than issuing FPNs. |
| 6 | 10/05/2022 12:13 PM ID: 191010451 | No It depends whether it is developed without corruption.. or biases from current employees |

### Response

The Council will aim to resolve issues efficiently and expediently by providing information and guidance and using the statutory legislation where informal means fail to redress the issue. In more serious issues, for example, where there is imminent risk to public health, the Council may decide to use formal powers straight away to resolve the issue. Many aspects of enforcement are supplemented by procedures, which outline the escalation process. It is not always possible to predict every case scenario; in these cases, the officer with the appropriate delegated authority will review the case and decide on the best course of action. Some cases may require Executive approval, particularly where it requires significant Council funding.

We welcome reports of fly tipping [Report an issue - Guildford Borough Council](https://www.guildford.gov.uk/report)

and encroachment onto land [Report a suspected planning breach - Guildford Borough Council](https://www.guildford.gov.uk/planningenforcement) via our webforms.

All decisions taken outside of this policy will be recorded and rationale for the decision justified.

## Do you have any suggestions on how this document could be improved?

Open ended question results:

|  |  |  |
| --- | --- | --- |
| **Number** | **Date and ID** | **Answer** |
| 1 | 22/04/2022 16:50 PM ID: 189870707 | Parking enforcement is by far the largest statutory enforcement activity that GBC undertake, both in terms of volume and revenue. However, GBC's existing and proposed corporate enforcement policies do not make any reference to this.  This being the case, perhaps it would be useful to clarify the situation better by re-naming the document 'Corporate Enforcement Policy (excluding Civil Parking and Moving Traffic Enforcement)', or something of that ilk. Alternatively, perhaps the title should highlight more clearly the areas that the corporate policy does cover. |
| 2 | 23/04/2022 16:25 PM ID: 189907545 | It appears to be designed to elicit the answer GBC wishes to receive. If legislation exists and it is the responsibility to enforce it, then it should do so in an open and transparent way, without applying its own interpretation. |
| 3 | 24/04/2022 09:20 AM ID: 189920415 | The document is irrelevant and just a load of ‘woolly PC speak’  Residents want a council that takes action |
| 4 | 24/04/2022 10:34 AM ID: 189922502 | Above all, enforcement action must be and be seen to be EFFECTIVE which it is not at present. |
| 5 | 29/04/2022 10:02 AM ID: 190316868 | The document says, "Paying a fixed penalty is an admission that an offence has been committed but avoids the need for an individual to be prosecuted".  This is incorrect - paying a fixed penalty notice is not an admission of guilt.  That sentence should be omitted from the consultation document. |
| 6 | 10/05/2022 12:13 PM ID: 191010451 | Yes Let more residents be involved |

### Response

Parking Enforcement does not form part of this enforcement policy. Details of Guildford Borough Council’s enforcement approach taken on parking contraventions and moving traffic violations can be obtained from the Council’s Parking Lead.

Please refer to previous responses to questions 1 and 2 Re: enforcement approach.

We would welcome feedback on specific cases where we did not meet expectations via our compliments and complaints procedure at: [Make a complaint to the council - Guildford Borough Council](https://www.guildford.gov.uk/article/24731/What-complaints-do-we-deal-with)

Fly-Tipping Fixed Penalty Notices are designed to give an offender the opportunity to discharge any liability to conviction for an offence - which means that by admitting the offence and paying the fine, an offender can avoid being prosecuting for that offence. The sentence will be amended for accuracy.

We would welcome constructive suggestions on how residents can be involved in and support our enforcement activities.

## Are you confident that this policy will make sure that individuals and businesses will be treated fairly by us, Guildford Borough Council?

|  |  |
| --- | --- |
| **Answer choice** | **Response total** |
| Yes, individuals and businesses will be treated fairly | 1 |
| Individuals will be treated fairly, but not businesses | 0 |
| Businesses will be treated fairly, but not individuals | 3 |
| Neither individuals nor businesses will be treated fairly | 4 |

Please give a reason for your answer:

|  |  |  |
| --- | --- | --- |
| **Number** | **Date and ID** | **Answer** |
| 1 | 23/04/2022 16:25 PM ID: 189907545 | If the choice of enforcement is for GBC, how can it be determined that the Council isn't acting in a prejudicial way against individuals or businesses. The appropriate legislation should be enforced without a GBC 'filter' applied |
| 2 | 24/04/2022 09:20 AM ID: 189920415 | Criminals and law breakers will flourish, residents are being ignored |
| 3 | 24/04/2022 10:34 AM ID: 189922502 | It is too inpersonal for individuals and biased against them |
| 4 | 10/05/2022 12:13 PM ID: 191010451 | WHY IS IT NOT POSSIBLE TO ANSWER ‘NO’  It seems it’s who you know within the council rather than situations being fair.  Bullying and hiding behind various excuses seem to be acceptable by employees of the council. Whereas the residents are expected to pay, be out of pocket, not treated fairly and discriminated against and accept all of these negative behaviours. |

### Response

There are lots of offences where we can take a rules-based approach to enforcement, however, where officer judgement and assessment is required against legislation and statutory guidance, it is not always straight forward. In this instance we aim to employ professional and competent officers, coupled with systems and procedures, to deal with matters in the most effective and expedient manner to resolve the issue. It is common practice to discuss more complex cases with colleagues and Lead Officers to ensure that there is a fair and consistent approach to enforcement between officers and the Council’s legal team. Where it is deemed that there is no offence, we will aim to advise the complainant as soon as practicable.

We would welcome feedback on specific cases where residents have been ignored in order to inform our policies and procedures to ensure that this imbalance is redressed.

We take allegations of bullying very seriously and would welcome feedback on specific circumstances when this has occurred.

Guildford Borough Council wants to treat all people equally and encourage diversity, ensuring there are no barriers to people complying with the law and seeking justice. All of staff are trained in relation to our Equality and Diversity Policy. We take allegations of discrimination and bias very seriously and, where there is evidence to substantiate it, will take robust action to tackle this behaviour.

|  |  |
| --- | --- |
| Service | Sign off date |
| Finance / S.151 Officer | R Stubbs 19/7/22 |
| Legal / Governance | N. Joss 22/8/22 |
| HR |  |
| Equalities |  |
| Lead Councillor |  |
| CMT |  |
| Executive Liaison |  |
| Committee Services |  |