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1. Introduction

This document sets out what business and others can expect from Council regulatory services. We are committed to good enforcement policies and procedures. Authorised Officers will have due regard to any relevant legislation, formal procedures, mandatory guidance and codes of practice made under such legislation and will be guided in their work by the principles laid down in legislation and underpinning this policy.

Where necessary specific enforcement guidelines, procedures and documentation has been and will continue to be developed to support authorised officers making enforcement decisions and to ensure compliance with all statutory codes of practice and official guidelines.

1.1 What we mean by 'Regulatory' and 'Enforcement'

Although these terms are not specifically defined in legislation:

- 'Regulatory' encompasses the Council's numerous powers and duties enabling the behaviour of individuals and/or organisations to be controlled in the public interest.
- 'Enforcement' includes any action carried out in the exercise of, or against the background of, statutory powers and duties of regulation. This is not limited to formal enforcement action such as prosecution in the criminal Courts or the giving of Notices. It also includes, among other things, the inspection of premises for the purpose of checking compliance with regulations or conditions, the imposition of conditions on any license, consent or similar formal permission, the issue of fixed penalty notices, the giving of Cautions and the making of applications to the Courts for Orders to control the conduct of individuals and/or organisations.

2. Purpose

The purpose of this policy is to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens on business and others subject to regulation.

Our enforcement role should involve actively working with all those subject to regulation, especially small and medium sized businesses, to guide and assist with compliance.

This Policy has been developed with due regard to the Principles of Good Enforcement set out in the following guiding documents:

- The Enforcement Concordat (March 1998)
- The Regulators Code (July 2013)
- The Code for Prosecutors revised in 2008 published by the NI Public Prosecution Service

All enforcement activities, including investigations and formal actions, will be conducted in compliance with the Council's statutory obligations. Council authorised officers will act within the scope of their delegated authority and with due regard to all relevant legislation, such as:

- The Police and Criminal Evidence (NI) Order 1989
- The PACE Order (Amendment) (NI) Order 2007
- The Criminal Procedure and Investigations Act 1996
- The Criminal Justice NI Order 1986
- The Criminal Justice (NI) Order 1988
- The Criminal Justice (Evidence etc.) (NI) Order 1988
- The Criminal Justice (NI) Order 1994
- The Criminal Justice (NI) Order 1996
- The Criminal Justice (NI) Order 2004
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000
- The Criminal Justice and Police Act 2001
- The Legislative and Regulatory Reform Act 2006
- Section 75 of The Northern Ireland Act 1998
- The Data Protection Act 2018 and
- All associated Codes of Practice

In certain circumstances, the Council may derogate from such statutory responsibilities to the extent that is permitted by law and is proportionate. A breach of the statutory responsibilities referred to above will not necessarily result in a decision not to take enforcement action . We will ensure that any decision to depart from relevant policy guidelines will be properly reasoned and based on material evidence.

3. Scope

The primary function of local government regulatory activity is to protect the public, the environment and groups such as consumers, residents and tenants, workers and businesses. However, it is important that these enforcement functions are carried out in an equitable, practical and consistent manner, and that those subject to regulation and those on whose behalf enforcement is carried out are aware of the Council's policy on enforcement.

4. Policy Detail

4.1 Our Enforcement Principles

Although not directly applicable in NI we aim to apply the principles of the Legislative and Regulatory Reform Act 2006 and the Regulators Code as follows:

Regulatory activities should be carried out in a way, which is transparent,

accountable, proportionate, targeted and consistent.
The following paragraphs set out how we aim to make this happen in practice.

4.1.1 Transparent

The Council will provide clear information and guidance on general compliance issues, individual compliance failures or any difficulties an individual may experience when trying to comply with the law. The onus does remain with individuals, businesses and organisations to comply with their legal obligations.

4.1.2 Accountable

As a regulator, the Council will be accountable to the public for its actions. If someone is dissatisfied with the level of service provided, the Council welcomes comments on how that can be improved.

4.1.3 Proportionate, Targeted and Risk-based

In line with the codes referred to above, we will take account of the circumstances of the case and the response of those subject to regulation when considering action. We will direct resources to those who flout the law or act irresponsibly and take firm action against them, including prosecution where appropriate.

4.1.4 Consistent Enforcement

We will carry out our duties in a fair, equitable and consistent manner. While authorised officers are expected to exercise judgement in individual cases and to treat each case on its own merits, we have arrangements in place to promote consistency. We support and will promote arrangements for effective liaison with other authorities and enforcement bodies through schemes such as the Home Authority Principle and Primary Authority Principle.

4.1.5 Helping Businesses and Others to Compliance – Supporting Economic Progress

The effectiveness of legislation in protecting consumers, other businesses and the community depends crucially on the compliance of those regulated. We recognise that most people and most businesses want to comply with the law. We will, therefore, take care to help businesses and others meet their legal obligations without unnecessary expense.

4.1.6 Adopting Good Enforcement Procedures

Guidance from an authorised officer will be put clearly and simply, explaining why any remedial work or action is considered to be necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice. Such guidance will usually be confirmed in writing.

4.1.7 Working with Other Enforcement Agencies

Some regulatory activity involves consultation with other agencies before deciding on the most appropriate course of action. If there is a shared enforcement role with other agencies, whenever possible our enforcement activities will be coordinated with these agencies.

Wherever we have a statutory duty to report regulatory matters to another body or agency, we will have procedures in place to ensure that this will happen and will do so to ensure that the information is passed to that agency in accordance with the Data Protection Act 2018.

4.1.8 How We Take Enforcement Action

Whenever enforcement officers deal with matters that could constitute a criminal offence, and for which legal proceedings may be taken against an individual and / or a company, such allegations will be properly investigated. Officers have a range of investigatory powers given by law that may be deployed in their investigations.

At the conclusion of an officer's enquiries, a decision will be made as to whether or not it is believed that an offence has in fact been committed, and, if this is the case, whether to deal with the matter informally, or whether to pursue a more formal course of action. There are a wide range of actions available to the Council in dealing with offences. The table below describes the main types of actions available.

In determining the most appropriate action to take, officers will consider the circumstances of the incident and this policy.

Action available	Explanation	Circumstances
Informal advice	Verbal or written advice identifying non-compliance and remedial measures. No follow up action.	Where the offence is minor and the risk from non-compliance is low.
Informal warnings	Verbal or written warning requiring remedial measures within a defined period of time. Will be followed up to ensure compliance.	Where non-compliance is not posing a serious risk and it is expected, from what is known of the offender, that informal action will achieve compliance.
Enforcement letters	Warning that a recurrence or continuation of an infringement will result in legal action or service of a statutory Notice.	Where non-compliance is not posing a serious risk and it is expected that the offender will achieve compliance, however, the offence itself is significant, recurring or longstanding.

Statutory notices	Where available under specific legislation, usually requires persons to take action or prohibits certain activities. Serving a notice does not preclude prosecution. Failure to comply is often an offence and prosecution will normally follow. Some notices require emergency action.	Offences are significant or consequences of continued non-compliance could be serious.
Fixed penalty notices	Some legislation allows the Council to issue fixed penalty notices where the offender is offered the opportunity to pay the fine and avoid prosecution.	May only be offered where expressly allowed by statute.
Action available	Explanation	Circumstances
Revocation, suspension or variation of permits, approvals and licenses.	Revoking or suspending a licence, approval, or permit is a serious decision will be taken by councillors in accordance with the Council's scheme of delegation.	A licence, permit or approval may be revoked or suspended if any condition attached to the licence be breached or where an activity presents a serious risk.
Works in default	Some legislation allows the Council to carry out works in default and to recover the costs.	Usually where urgent action is required to protect public health, public safety or the environment. The Council will normally seek to recover such costs where appropriate.

Injunctive proceedings	May be sought to require a party to either do a specific act or to refrain from doing a specific act or acts.	This will be considered in instances where the use of other enforcement powers would not be a sufficient remedy, for example where a person repeatedly fails to comply with the law or where there is an imminent risk to public health or public safety.
Anti-Social Behaviour Order (ASBO)	The Council can apply to the Magistrates Court for an Antisocial Behaviour Order (ASBO) which will prohibit a person from acting in an anti-social manner or from carrying out an act which contributes to anti-social behaviour.	Where there has been persistent, relatively low level offending or more serious matters that cause harassment, alarm or distress to others. An order is necessary to protect people from that type of behaviour in the future. An ASBO may be sought upon conviction but may also be sought where a person has not been convicted, or even charged, with an offence, provided there is sufficient evidence that an ASBO is necessary.
Action available	Explanation	Circumstances

<p>Prosecution/Caution</p>	<p>While the Council will take a graduated approach to enforcement, when circumstances warrant it, prosecution without prior warning or recourse to alternative sanctions will be pursued.</p> <p>All decisions to prosecute will take account of The Public Prosecution Service Code for Prosecutors and shall consider the following before commencing a prosecution:</p> <p>Firstly, whether it is satisfied there is sufficient admissible and relevant evidence that an offence has been committed and that there is a reasonable prospect of conviction.</p> <p>Secondly, if there is sufficient evidence, then whether it is in the public interest to prosecute. This usually depends on the seriousness of the offence and the circumstances of the offender and whether, through the conviction of the offender, others may be deterred from similar failures to comply with the law.</p> <p>A caution may be issued as an alternative to prosecution</p>	<p>Without prejudice to the generality of the above, the Council will normally prosecute in any of the following circumstances:</p> <p>The breaches have serious consequences for public safety or the environment.</p> <p>Failure to comply with a statutory notice or respond to a request to take remedial action.</p> <p>Failure to pay a fine after receiving a fixed penalty notice.</p> <p>Excessive or persistent breaches of legislation.</p> <p>Obstruction of Council staff in carrying out their statutory duties.</p>
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A full copy of the Prosecutors Code of Conduct is available from Public Prosecution Service. Their address is Belfast Chambers, 93 Chichester Street, Belfast, BT1 3JR. The Code is also available on the Public Prosecution Service website (<http://www.ppsni.gov.uk>) or from the Council on request.

4.1.9 Minors

A person under the age of 18 is deemed a minor by the courts and is normally prosecuted in the Youth Court. The Council does not usually prosecute minors and will instead use one of the other enforcement actions detailed in this policy.

However when considering how to deal with an offence, the Council will take into account all relevant factors, including the consequences of the offence. Therefore there may be circumstances in which the Council determines that it is in the public interest to prosecute a minor. Such a decision will only be taken in consultation with legal advisors.

4.1.10 Appeals

The following information will be made available by the Council in relation to appeals against enforcement action

- (i) Officers will advise persons against whom any enforcement action has been taken of their right to make representation to the officer's manager.
- (ii) If the Council serve a notice and the legislation used has a statutory appeal provision, details of that right of appeal and how it should be lodged will be served upon the recipient at the same time as the notice.

4.2 How we implement this Enforcement Policy

4.2.1 Publication

This policy will be made available to all interested parties, including businesses and consumers. It will be published on the council's website and in printed form. It will also be made available in different formats upon request.

4.2.2 Responsibilities

Each Director and Manager of a regulatory service that is covered by this policy will be responsible for its effective implementation throughout the enforcement activities of their team. Every officer within these teams will be responsible for applying it in relation to any enforcement activity covered by this policy.

5. Related Policies

Dog Control Enforcement Policy
Clean Neighbourhoods Enforcement Policy.
The Strategic Planning Policy Statement
The Planning Enforcement Strategy

Appendix 1 Equality Screening Form

Policy Scoping

Policy Title: General Enforcement Policy

Brief Description of Policy (please attach copy if available). Please state if it is a new, existing or amended policy.

Review of existing policy

Intended aims/outcomes. What is the policy trying to achieve?

Promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens on business and others subject to regulation.

Policy Framework

Has the policy been developed in response to statutory requirements, legal advice or on the basis of any other professional advice? Does this affect the discretion available to Council to amend the policy?

Developed in response to statutory requirements and best practice.

Are there any Section 75 categories which might be expected to benefit from the policy? If so, please outline.

No

Who initiated or wrote the policy (if Council decision, please state). Who is responsible for implementing the policy?

Who initiated or wrote the policy?	LGR Managers
Who is responsible for implementation?	Heads of Regulatory Functions (Environmental Health, Planning and Building Control)

Are there any factors which might contribute to or detract from the implementation of the policy (e.g. financial, legislative, other)?

No

Main stakeholders in relation to the policy

Please list main stakeholders affected by the policy (e.g. staff, service users, other statutory bodies, community or voluntary sector, private sector)

Service users
Business and Individuals including corporate bodies.

Are there any other policies with a bearing on this policy? If so, please identify them and how they impact on this policy.

Clean Neighbourhood Enforcement Policy
Dog control Enforcement Policy
The Strategic Planning Policy Statement
The Planning Enforcement Strategy

Available Evidence

Council should ensure that its screening decisions are informed by relevant data. What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories. For up to date [S75 Borough Statistics](#)

Section 75 category	Evidence
Religious belief	NA
Political opinion	NA
Racial group	NA
Age	NA
Marital status	NA
Sexual orientation	NA
Men and women generally	NA
Disability	NA
Dependants	NA

Needs, experiences and priorities

Taking into account the information gathered above, what are the different needs, experiences and priorities of each of the following categories in relation to this particular policy/decision?

Section 75 category	Needs, experiences and priorities
Religious belief	NA
Political opinion	NA
Racial group	NA
Age	NA
Marital status	NA
Sexual orientation	NA
Men and women generally	NA
Disability	NA
Dependants	NA

Screening Questions

1. What is the likely impact on equality of opportunity for those affected by this policy for each of the Section 75 categories?

Category	Policy Impact	Level of impact (Major/minor/none)
Religious belief		None
Political opinion		None
Racial group		None
Age		None
Marital status		None
Sexual orientation		None
Men and women generally		None
Disability		None
Dependents		None

2. Are there opportunities to better promote equality of opportunity for people within the Section 75 categories?

Category	If yes, provide details	If no, provide reasons
Religious belief		NA
Political opinion		NA
Racial group		NA
Age		NA
Marital status		NA
Sexual orientation		NA
Men and women generally		NA
Disability		NA
Dependents		NA

3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion, or racial group?

Category	Details of Policy Impact	Level of impact (major/minor/none)
Religious belief		None
Political opinion		None
Racial group		None

4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

Category	If yes, provide details	If no, provide reasons
Religious belief		NA
Political opinion		NA
Racial group		NA

Multiple Identity

Generally speaking, people fall into more than one Section 75 category (for example: disabled minority ethnic people; disabled women; young Protestant men; young lesbian, gay and bisexual people). Provide details of data on the impact of the policy on people with multiple identities. Specify relevant s75 categories concerned.

NA

Disability Discrimination (NI) Order 2006

Is there an opportunity for the policy to promote positive attitudes towards disabled people?

NA

Is there an opportunity for the policy to encourage participation by disabled people in public life?

NA

Screening Decision

A: NO IMPACT IDENTIFIED ON ANY CATEGORY – EQIA UNNECESSARY

Please identify reasons for this below

This is a technical policy which sets out the principles of enforcement which will be followed. No impact on equality of opportunity or good relations within the specified categories.

B: MINOR IMPACT IDENTIFIED – EQIA NOT CONSIDERED NECESSARY AS IMPACT CAN BE ELIMINATED OR MITIGATED

Where the impact is likely to be minor, you should consider if the policy can be mitigated or an alternative policy introduced. If so, an EQIA may not be considered necessary. You must indicate the reasons for this decision below, together with details of measures to mitigate the adverse impact or the alternative policy proposed.

C: MAJOR IMPACT IDENTIFIED – EQIA REQUIRED

If the decision is to conduct an equality impact assessment, please provide details of the reasons.

Timetabling and Prioritising

If the policy has been screened in for equality impact assessment, please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3 with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

Policy Criterion

Rating (1-3)

Effect on equality of opportunity and good relations

Social need

Effect on people's daily lives

The total rating score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the council in timetabling its EQIAs.

Is the policy affected by timetables established by other relevant public authorities? If yes, please give details.

Monitoring

Effective monitoring will help the authority identify any future adverse impact arising from the policy. It is recommended that where a policy has been amended or an alternative policy introduced to mitigate adverse impact, monitoring be undertaken on a broader basis to identify any impact (positive or adverse).

Further information on monitoring is available in the Equality Commission's guidance on monitoring (www.equalityni.org).

Identify how the impact of the policy is to be monitored

Approval and Authorisation

A copy of the screening form for each policy screened should be signed off by the senior manager responsible for that policy. The screening recommendation should be reported to the relevant Committee/Council when the policy is submitted for approval.

Screened by	Position/Job title	Date
Catherine McCrory	Strategy, Policy & Equality Officer	22/11/2023
Approved by	Position/Job Title	Date
Elizabeth Reaney	Head of Department: Environmental Health	24/11/2023

Please forward a copy of the completed policy and form to:

mary.hanna@armaghbanbridgecraigavon.gov.uk

who will ensure these are made available on the Council's website.

The above officer is also responsible for issuing reports on a quarterly basis on those policies "screened out for EQIA". This allows stakeholders who disagree with this recommendation to submit their views. In the event of any stakeholder disagreeing with the decision to screen out any policy, the screening exercise will be reviewed.

Appendix 2 Rural Needs Impact Assessment (RNIA)

SECTION 1

Defining the activity subject to Section 1(1) of the Rural Needs Act (NI) 2016

1A. Name of Public Authority: Armagh City, Banbridge & Craigavon Borough Council

1B. Please provide a short title which describes the activity being undertaken by the Public Authority that is subject to Section 1(1) of the Rural Needs Act (NI) 2016.

General Enforcement Policy

1C Please indicate which category the activity specified in Section 1B above relates to:

Developing a *Choose an item.*

Adopting a *Choose an item.*

Implementing a *Choose an item.*

Revising a **Policy**

Designing a Public Service

Delivering a Public Service

1D. Please provide the official title (if any) of the Policy, Strategy, Plan or Public Service document or initiative relating to the category indicated in Section 1C above

General Enforcement Policy

1E. Please provide details of the aims and/or objectives of the Policy, Strategy, Plan or Public Service

The purpose of this policy is to promote consistent and efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes

1F. What definition of 'rural' is the Public Authority using in respect of the Policy, Strategy, Plan or Public Service?

Population Settlements of less than 5,000 (Default definition)

Other Definition (Provide details and the rationale below)

A definition of 'rural' is not applicable

Details of alternative definition of 'rural' used

Rationale for using alternative definition of 'rural'.

Reasons why a definition of 'rural' is not applicable.

This policy will not have a differential impact on people living in rural areas.

SECTION 2

Understanding the impact of the Policy, Strategy, Plan or Public Service

2A. Is the Policy, Strategy, Plan or Public Service likely to impact on people in rural areas?

Yes

No

If response is No go to 2E

2B. Please explain how the Policy, Strategy, Plan or Public Service is likely to impact on people in rural areas.

2C. If the Policy, Strategy, Plan or Public Service is likely to impact on people in rural areas *differently* from people in urban areas, please explain how it is likely to impact on people in rural areas differently.

NA

2D. Please indicate which of the following rural policy areas the Policy, Strategy, Plan or Public Service is likely to primarily impact on.

- Rural Businesses
- Rural Tourism
- Rural Housing
- Jobs or Employment in Rural Areas
- Education or Training in Rural Areas
- Broadband or Mobile Communications in Rural Areas
- Transport Services or Infrastructure in Rural Areas
- Health or Social Care Services in Rural Areas
- Poverty in Rural Areas
- Deprivation in Rural Areas
- Rural Crime or Community Safety
- Rural Development
- Agri-Environment
- Other (Please state)

If the response to Section 2A was YES GO TO Section 3A.

2E. Please explain why the Policy, Strategy, Plan or Public Service is NOT likely to impact on people in rural areas.

No differential impact on people living in rural areas

SECTION 3**Identifying the Social and Economic Needs of Persons in Rural Areas**

3A. Has the Public Authority taken steps to identify the social and economic needs of people in rural areas that are relevant to the Policy, Strategy, Plan or Public Service?

Yes

No

If response is No go to 3E

3B. Please indicate which of the following methods or information sources were used by the Public Authority to identify the social and economic needs of people in rural areas.

Consultation with Rural Stakeholders

Consultation with Other organisations

Published Statistics

Research Papers

Surveys or Questionnaires

Other Publications

Other Methods or Information Sources

(include details in Question 3C below)

3C. Please provide details of the methods and information sources used to identify the social and economic needs of people in rural areas including relevant dates, names of organisations, titles of publications, website references, details of surveys or consultations undertaken etc.

3D. Please provide details of the social and economic needs of people in rural areas which have been identified by the Public Authority?

If the response to Section 3A was YES GO TO Section 4A.

3E. Please explain why no steps were taken by the Public Authority to identify the social and economic needs of people in rural areas?

This policy will not have a differential impact on people living in rural areas.

SECTION 4

Considering the Social and Economic Needs of Persons in Rural Areas

4A. Please provide details of the issues considered in relation to the social and economic needs of people in rural areas.

SECTION 5

Influencing the Policy, Strategy, Plan or Public Service

5A. Has the development, adoption, implementation or revising of the Policy, Strategy or Plan, or the design or delivery of the Public Service, been influenced by the rural needs identified?

Yes

No

If response is No go to 5C

5B. Please explain how the development, adoption, implementation or revising of the Policy, Strategy or Plan, or the design or delivery of the Public Service, has been influenced by the rural needs identified.

If the response to Section 5A was YES go to 6A.

5C. Please explain why the development, adoption, implementation or revising of the Policy, Strategy or Plan, or the design or the delivery of the Public Service, has NOT been influenced by the rural needs identified.

This policy will not have a differential impact on people living in rural areas.

SECTION 6

Documenting and Recording

6A. Please tick below to confirm that the RNIA Template will be retained by the Public Authority and relevant information on the Section 1 activity compiled in accordance with paragraph 6.7 of the guidance.

I confirm that the RNIA Template will be retained and relevant information compiled.

Rural Needs Impact Assessment undertaken by: (Paula O'Neill)

Position: (Environmental Health Manager)

Department / Directorate: (Environmental Health)

Signature: Paula O'Neill

Date: 22/10/2023

Rural Needs Impact Assessment approved by: (Elizabeth Reaney)

Position: (Head of Department)

Department / Directorate: (Environmental Health)

Signature: Elizabeth Reaney

Date: 22/11/2023