



ADUR & WORTHING  
C O U N C I L S

Joint Strategic Committee  
Date July 2023

Key Decision No

Ward(s) Affected: All

## **Regulating wisely: Updated Adur and Worthing Public Health & Regulation Enforcement Policy**

### **Report by the Director for Sustainability & Resources**

#### **Officer Contact Details**

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#### **Executive Summary**

##### **1. Purpose**

- The report introduces the updated Public Health and Regulation Enforcement Policy. The Policy provides a regulatory framework to improve the health, safety and wellbeing of our businesses, communities and places.

##### **2. Recommendations**

- This report asks the Joint Strategic Committee to consider and approve the Public Health & Regulation Team Enforcement Policy for a further period of three years, until July 2026.

### **3. Context**

- 3.1 The Adur and Worthing Councils' Public Health and Regulation (PH&R) Enforcement Policy was first approved by this Committee on 8th November 2016 and was subsequently published in January 2017. The Policy was first reviewed and brought back to this Committee in 2020.
- 3.2 Wise regulation is central to the health, safety and wellbeing of our businesses, residents and communities. Informed regulatory activity provides clarity and balance for protecting and reassuring local communities and businesses with advice, education and enforcement to help ensure communities, economies and places can thrive. It is therefore a core part of being Resilient, Adaptable and Participative delivering Our Plan in Adur and Worthing.
- 3.3 When regulation is used well, it provides a proportionate, transparent and pragmatic approach that supports and informs businesses to comply with legislation without necessarily the need for formal action. It supports a 'level playing field' and gives consumers confidence that they can safely interact with businesses and places.
- 3.4 This Policy sets out the regulatory framework for the PH&R Team, which includes Environmental Health (Food, Health & Safety and Environmental Protection), Licensing (Alcohol/Taxis) and Dog Wardens, who work with local businesses, local places (air quality, water quality, land remediation) and communities. It details the process Public Health and Regulation officers will use when deciding what action to take when carrying out their statutory duties on behalf of the PH&R team, setting out the:
- Scope and responsibilities of officers;
  - Guiding principles of regulation and this policy
  - training and competencies needed of officers, to ensure the delivery of a professional service with a strong reputation,
  - guides for officers around regulation and options
  - Need for feedback and learning
- 3.5 This policy is now due for a further review and has been brought back to the Joint Strategic Committee following a consultation exercise. The new Public Health and Regulation Enforcement Policy 2023 can be found as Appendix 1.

#### **4. Issues for consideration**

- 4.1 The current Enforcement Policy has served the team well over the last three years and provided a clear framework and reference for officers in carrying out their duties for securing public safety.
- 4.2 Underpinning this policy are clear principles of proportionality, which have enabled officers to use enforcement wisely and where necessary and to use the range of tools - information, guidance, advice - in order to improve and change practices. This has proved to be a robust and fair approach with the teams. It should be noted that the approach taken and professional skills of the officers has resulted in the vast majority of issues being resolved through robust advice, guidance and negotiation.
- 4.3 Over the last year (January to December 2022) our data shows that most of our service requests were related to Noise Nuisance (675), animal welfare (701), and Food & Safety (466). In relation to these issues the vast majority are dealt with through a variety of tools, with formal enforcement measures being used in cases where it was appropriate and proportionate to do so:
- Environmental Protection (1760 service requests): 3 Nuisance Abatement Notices served (Noise + other nuisances),
  - Animal Welfare inc dog control (701 service requests): 1 Fixed Penalty Notices,
  - Food safety and hygiene (466 service requests): 1 Food Safety Notices. 6 voluntary closures, 6 detention/seizure/surrender of food, 2 improvement notices and 446 written warnings,
  - Health and safety (119 service requests): 1 Health and Safety Notice was served which related to exposed wires in the cubicle to men's toilets,
  - General Licensing (514 service requests) 1 revoked, 14 Surrendered - (1 review) which lead into the revoked licence and 0 suspensions.
  - Hackney carriage and private hire (366 service requests) 7 suspensions
- 4.4 The scope of the revisions to the Policy included expanding references of dog control to animal welfare, a legislative framework update, principles of enforcement, criminal investigation procedure and inclusion of diversity and equality.
- 4.5 The Enforcement Policy has and will continue to promote efficient and effective approaches to regulatory inspection and enforcement, which improve

regulatory outcomes without imposing unnecessary burdens, in accordance with the Regulators' Code.

- 4.7 This report asks the Joint Strategic Committee to consider and approve the draft Public Health & Regulation Team Enforcement Policy for a period of another three years, until July 2026.

## **5. Engagement and Communication**

### **5.1 Internal Consultation**

5.1.1 This revised policy has been shared and received comments from a number of internal colleagues, including legal services and the wider PH&R Team and the leadership of the Councils and it has been shared with the Executive Members for Wellbeing, Environment and Licensing Chairs for comments.

5.1.2 The Policy has been considered by the Customer Services Team to ensure consistency with our 'Good Services' approach. The service now has a public register available online which can be viewed by the public.

5.1.3 The comments from this have been integrated into the new draft policy. In general it was agreed that it is fit for purpose, useful and relevant to the Teams using the regulatory continuum to ensure a level playing field for businesses and residents.

### **5.2 External Communication**

5.2.1 The revised draft Enforcement Policy was placed on the website with a short questionnaire for 4 weeks from 15th May to 12th June 2023. This was aimed at both businesses and residents.

5.2.2 Alongside the general consultation with the public, officers invited targeted feedback from a sample of businesses which had been subject to recent regulatory action, both formal and informal, and also individuals who use these businesses or who may have sought assurance or made complaints to the PH&R Team. These individuals were written to directly and invited to make their comments on the Enforcement Policy on the website which was accompanied by the following four questions;

1. Were our interactions with you open and honest??
2. Did we provide a courteous and helpful service??
3. Are there any areas where the policy could be improved?

4. In your opinion, was the enforcement action proportionate to the risk?

5.2.3 This approach of inviting residents and businesses by posting a general invitation on the website and directing a small sample of recent cases randomly chosen within the last 6 months resulted in 4 responses. It is acknowledged that an enforcement policy may not attract interest or comments from the general public or indeed businesses or individuals subject to enforcement action, whether formal or informal.

5.2.4 This has highlighted general satisfaction with the approach taken by officers with comments (see Appendix 2).

## **6. Financial Implications**

6.1 There are no unbudgeted financial implications arising from this report.

Finance Officer: Sarah Gobey

Date: 28th June 2023

## **7. Legal Implications**

7.1 The Councils undertake a wide variety of enforcement activity under a number of statutory regimes. The Councils must apply the relevant statutory provisions in all cases but there are common factors that should be applied to all enforcement matters. By having an up to date enforcement policy, the Councils ensure that there is clear guidance to officers, businesses, residents and other stakeholders as to how the Councils will undertake enforcement action. This will enable consistent and transparent decision making and enforcement to be undertaken.

7.2 s1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation

7.3 Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

Legal Officer: Andrew Mathias

Date: 28th June 2023.....

## **Appendices**

Appendix 1 - Draft Public Health and Regulation Enforcement Policy 2023

Appendix 2 - Consultation Responses

### **Background Papers**

- PH&R Enforcement Policy 2020
- JSC Report 8th November 2016
- Consultation with targeted questions

### **Sustainability & Risk Assessment**

#### **1. Economic**

- The policy ensures transparency and a level playing field for businesses in complying with legislation.

#### **2. Social**

##### **2.1 Social Value**

- The Policy ensures a pragmatic and proportionate approach to regulation which keeps the public safe and allows businesses to thrive.

##### **2.2 Equality Issues**

- The Policy ensures that each case is assessed on its own merits using the general enforcement principles of proportionality and fairness.

##### **2.3 Community Safety Issues (Section 17)**

- Matter considered and not relevant.

##### **2.4 Human Rights Issues**

- The Policy ensures that each case is assessed on its own merits using the general enforcement principles of proportionality and fairness.
- The Policy includes a mechanism for appeal.

#### **3. Environmental**

- The Policy covers the enforcement approach supporting noise/air/water and land quality.

#### **4. Governance**

- The Policy aligns is a core part of being Resilient, Adaptable and Participative delivering Our Plan in Adur and Worthing which includes the Organisational Improvement Frameworks', Good Services Principles.

- There are implications to the Councils' reputation or relationship with our partners or community if our enforcement activities were not fair and transparent.
- The Policy has resourcing implications in that the Statutory duties undertaken by the PH&R Team require appropriately trained Officers with the appropriate delegated Authority.