

Regulatory Services Enforcement Policy 2021

Appendix 1

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Introduction

1. Southwark Council is committed to building a strong local economy.
2. Our Fairer Future principles include making Southwark a place to be proud of and that the council is open, honest and accountable.
3. To support the above objectives, we are committed to good regulatory enforcement practice and to avoid the imposition of any unnecessary regulatory burden.
4. This regulatory services enforcement policy sets out a framework to achieve this and reflects the relevant legislative powers and duties of the council.
5. The regulatory services enforcement policy has been updated following the implementation of the Regulators Code April 2014, which applies to specified regulatory functions carried out by the council, and, to the implementation of the Anti-social Behaviour, Crime and Policing Act 2014.
6. This regulatory services enforcement policy has been approved in line with the Council's constitution and supersedes previous regulatory enforcement policies.
7. This regulatory services enforcement policy is subordinate to the corporate Council overarching Enforcement Policy.
8. Beneath this regulatory services enforcement policy there are several specific enforcement policies. These specific enforcement policies are not comprehensive but apply where legislation, government or good practice has required them, for example, Food Safety, Planning, Trading Standards Private Sector Housing Enforcement Service and Integrated Pollution Prevention & Control.
9. In updating this regulatory services enforcement policy there has been consideration of the legislation, guidance and codes listed in **Appendix 1**.
10. The regulatory services enforcement policy does apply to the enforcement activities carried out in the service areas listed in **Appendix 2**.
11. This policy does not apply to Southwark Council's:
 - Financial fraud investigations and enforcement
 - Tenancy enforcement & special investigations
 - Parking, markets & highways enforcement
 - Children & Adults Services enforcement in education and social services
 - Estates & property leasing
 - Planning Enforcement
 - Building Control
 - Property Services

What is this policy for?

12. The purpose of this policy is to provide a consistent, correct, efficient and effective approach to making enforcement decisions within the regulatory services division. It also serves to communicate Southwark Council's policy towards addressing non-compliance with regard to the legislation that is enforced.
13. The Council uses a range of activities to ensure compliance with the legislation enforced by the services listed in Appendix 2. These include:
 - Site visits, inspections and patrols
 - Acting on intelligence received
 - Carrying out investigations
 - Serving legal notices/orders to effect a stop, a change, a restriction or an improvement
 - Issuing financial penalties
 - Giving formal warnings, conditional cautions and simple cautions
 - Giving informal advice, including education & awareness programmes
 - Injunctive actions, byelaws and temporary powers
 - Prosecutions
 - Carrying out test purchases, seizure, sampling and analysis
 - Licensing and Permits

The above range of enforcement activities and actions may change as further legislation is enacted or repealed.

When does this policy apply?

14. The policy applies to enforcement actions taken by the Council to deal with legislative non-compliance with the acts, regulations and orders that are enforced by the service areas listed in Appendix 2.
15. The term enforcement action includes any action taken by the council and its officers to achieve compliance, for example;
 - Giving advice, guidance, information and support to encourage compliance
 - Giving informal warnings for instances of minor non-compliance
 - Agreeing to voluntary undertakings to permit immediate or intensive action to be taken to ensure rapid compliance, e.g. voluntary premises closure, surrender of a permit or license, surrender of items, etc.
 - Removal, review or nullification of licences, permits, agreements, leases, etc.
 - Investigation & seizure of items
 - Formal action such as the service of a premises closure order, statutory notice, a penalty notice or issuing a simple or conditional caution
 - Instituting legal proceedings such as prosecution, injunction or court order

16. There may be other options for enforcement action available in respect of particular service areas. There may also be service specific statutory obligations regarding enforcement. These will be identified in the published policies relating to those particular services as referred to at points 8 & 10.
17. In applying this policy regard shall also be had to underlying policies or protocols that deal with specific service areas or issues.

General principles for dealing with non-compliance

18. There is an escalating scale of actions that can be taken depending on the nature and seriousness or severity of the non-compliance and whether it is a recurrent issue. Decisions on what the appropriate action to take is made by officers named in the Council's published scheme of delegations. This regulatory enforcement policy will be taken into account when those decisions are under consideration.
19. The type of enforcement action taken will depend on the particular circumstance of concern.
20. The council and its officers will be fair, objective and take into account the council's published approach to [equality](#).
21. Enforcement activities, including determining whether to investigate or not, will be based on whether there is an appropriate offence, any relevant risk assessments, the quality of intelligence and any available evidence, local service priorities, public nuisance considerations, the evidential and public interest tests, etc. Matters of particular local concern can also be taken into account.
22. In addition to statutory obligations all those who are subject to enforcement action will be informed of the reasons in writing.
23. Where further action is needed to achieve compliance, whether this be to a domestic occupier, a landlord, a business or a group such as a charity, is required, this will be expressly stated with a clear timeframe (where applicable). This process should involve dialogue and research to ensure timeframes applied are reasonable and achievable.
24. Where there is negligent, persistent or deliberate non-compliance, particularly by a business, it will be dealt with firmly. This is to ensure compliant businesses and individuals can operate in Southwark free of unfair or illegal competition.
25. Enforcement actions will be proportionate to the non-compliance and will ensure the minimum legal standard of compliance is maintained.
26. Enforcement action shall not necessarily be triggered if those who are subject to regulation become aware themselves of a non-compliance and show a demonstrable willingness to address the matter by seeking advice from the Council (or other agencies or their own legal representation).
27. Enforcement action against business will consider relevant Primary Authority agreements/arrangements, previously agreed formal sampling plans, inspection plans and documented quality control arrangements.
28. Where there are shared roles with other enforcement agencies, such as the Police, HSE, EA, FSA, etc., enforcement activities will be consulted on and co-ordinated as far as possible, to

avoid duplication, ensure clarity and improve regulatory effectiveness. Where appropriate, partnership work will be undertaken in line with agreed Memorandums of Understanding and any other agreements or guidance documents applicable. If these are not in place then there shall be structured, formal liaison.

29. The Council cannot take legal action against itself. Where potential formal enforcement action concerns a local authority establishment or activity, the enforcing service must notify their Head of Service and the Head of Service responsible for the establishment or activity causing concern. The Heads of Service must notify their relevant Executive Directors. The Executive Directors shall ensure that decisions concerning non-compliance internal to Southwark Council are made free from potential and/or actual conflicts of interest. The Executive Directors will have the ability to involve another local authority or independent organisation to review decisions where any concern remains.
30. Where non-compliance is subject to an investigation, the individuals or organisations will be made aware of the investigation and shall be informed of the outcome.
31. Witnesses in legal proceedings shall be kept updated in accordance with relevant service standards and targets.
32. Where legislative non-compliance is identified, but it is not the duty or responsibility of the Council to address this, information may be passed to other enforcement agencies or organisations. This shall occur with clear regard to data protection law, GDPR and any relevant protocols or Memorandums of Understanding where they are in place.

No Action

33. In certain circumstances, it might be appropriate that no action is taken. For example:
 - a) When the health and safety risk is sufficiently low enough.
 - b) Where there are extenuating circumstances regarding the person against whom action would be taken.
 - c) Taking formal action would be disproportionate or inappropriate in the circumstances of the case.

Advice guidance and support

34. Where there is evidence of non-compliance, but it is decided that the matter is minor, of low risk and/or is easily resolved, the Council can consider an advice and guidance approach as a first response.
35. Such advice would include a clear explanation of what action is required to achieve compliance, a clear timeframe for implementation and a compliance check. This might be appropriate when new legislation is introduced and businesses may be unaware of new responsibilities and/or where the nature of the breach is minor and the public are at low risk from any negative consequence or impact.
36. The Council is open to dialogue in relation to any advice or guidance given by an authorised officer.

Informal warnings

37. In some cases, an opportunity will be given to make improvements in order to comply with the law within a reasonable time period.
38. Informal warnings can take the form of a verbal warning, a report or a written warning. Informal warnings will explain:
 - the law that applies,
 - the nature of the non-compliance,
 - the action to take,
 - the time period by which compliance should be achieved (if applicable),
 - clearly define what are legislative requirements and what are recommendations, and
 - the consequences of continuing with non-compliance.
39. Informal warnings may be used as evidence of previous conduct in legal proceedings should non-compliance continue to an extent to justify formal action.
40. The council will keep an audit trail that identifies the enforcement steps taken and the opportunities given to achieve compliance.

Voluntary undertakings

41. The Council may, in certain circumstances, accept voluntary undertakings that a non-compliance will be rectified and/or a recurrence prevented. Failure to honour voluntary undertakings is taken seriously and formal enforcement action to ensure compliance is likely to follow.

Statutory notices & orders

Notices

42. Some legislation confers powers to issue statutory notices. Notices require that specified action, to achieve compliance, be carried out within a defined timescale.
43. Notices may also prohibit specified activities until the non-compliance has been rectified and/or until safeguards, to prevent future non-compliance, have been put in place.
44. The service of some notices may also be accompanied by a fee to recover costs of investigation, preparation and service of notices.
45. Failure to comply with a statutory notice may constitute a criminal offence and may lead to prosecution or the imposition of a financial penalty and/or the carrying out of necessary works in default by the Council and subsequent recovery or the costs for those works and administration and organisation of them.
46. Some notices issued may be advertised in the public domain, affixed to the premises and/or registered with the Land Registry and/or as local land charges.

Orders

47. Some legislation confers powers to issue statutory orders. Orders require the prohibition or restriction of activities, occupation and/or use, by anyone or specified groups. Orders can also require the demolition of certain buildings or structures.

48. The service of some orders may also be accompanied by a fee to recover costs of investigation, preparation and service of the order.
49. Failure to comply with a statutory order may constitute a criminal offence and may lead to prosecution or the imposition of a civil penalty and/or the carrying out of necessary works in default by the Council and subsequent recovery or the costs for those works and administration and organisation of them.
50. Some orders issued may be advertised in the public domain, affixed to the premises and/or registered with the Land Registry and/or as local land charges.

Action against licences, permits, agreements, etc.

51. The Council issues and enforces a number of formal licences, permits, permissions, agreements, etc. Occasionally the Council has a role to play in ensuring that appropriate standards are met and reflect the permits or similar documents issued by other enforcement agencies.
52. Serious or repetitive non-compliance with the terms, conditions or restrictions of a licence, permit, permission, agreement, etc. may lead to its status being reviewed, revoked, suspended, terminated or amended. In such circumstances this final decision will be reached following compliance with the appropriate process, the presentation of relevant evidence and with all relevant considerations taken into account.
53. Non-compliance with the terms, conditions or restrictions of licences, permits, permissions, agreements, etc. can also result in the instigation of formal action and legal proceedings.
54. When considering premises or person licence applications, the Council may, where appropriate, take the previous history of the premises, the person and the applicant into account when processing and deciding such applications.
55. Where stated in the principal legislation most licences and permits are subject to automatic suspension or effectively lapse if they are time limited or if there is a failure to pay due fees.

Provision of Services Regulations 2009

56. Certain licensing activities are considered services and are therefore subject to the requirements of the Provision of Services Regulations 2009. This covers the application process, how fees are set and charged and whether tacit consent is applicable. Where this applies the relevant service shall set out how the licensing process complies with these regulations.

Financial penalties

57. The Council has powers to issue financial penalties of various kinds, be they fixed or variable in respect of some offences/non-compliances as set out in a variety of statutes. Some examples are fixed penalty notices (FPNs), penalty charge notices (PCNs) or Civil Penalties.
58. If these notices/fines are not paid, or there is repeated offending, the Council may also be able to commence formal enforcement action and/or legal proceedings depending on the statute being applied. This could be recovery or the imposed penalty or prosecution for the offence that led to the imposition of the penalty.

59. If a financial penalty is paid the Council will not (or in some cases cannot) take further enforcement action in respect of the non-compliance that led to its imposition. Payment of a financial penalty does not prevent prosecution or the issue of a further penalty in respect of future or recurrent non-compliance.
60. In some circumstances, in particular where a non-compliance is serious in its impact or is recurrent, prosecution may be more appropriate (where available) recourse that the Council takes where there is a choice between a penalty and prosecution.
61. Where the statute stipulates that the Council put in place and publish policy, statements, or similar before a power to use financial penalties can be used this will be done by the individual service and covered by that services individual enforcement policy (as set out at Appendix 2).

Cautions

Simple Cautions

62. Simple Cautions are an alternative to prosecution and may be offered for some less serious offences where there is sufficient evidence to justify prosecution and the person admits the offence and agrees to accept a caution voluntarily.
63. Where a simple caution is offered and declined, the Council is likely to consider taking forward a prosecution.
64. Simple cautions shall be issued in accordance with Ministry of Justice guidelines.

Conditional Cautions

65. Conditional Cautions are another alternative to prosecution and may be offered for some less serious offences where there is sufficient evidence to justify prosecution and the person admits the offence, agrees to accept a conditional caution voluntarily, including the conditions attached to it.
66. If the conditions are complied with or completed within the timescales determined, the case is finalised and there will be no prosecution. If, however, the conditions are not complied with, a prosecution is likely to follow.
67. Conditional cautions shall be issued in accordance with Ministry of Justice guidelines.

Injunctive actions, orders etc.

68. In some circumstances the Council may seek a direction from the Court (in the form of an order or an injunction) to ensure that a non-compliance is rectified and/or prevented from recurring. In certain situations the Council can seek injunctions against minors. Where this is considered necessary, no action will be taken against any minor without full consultation with the Council's Children's Services.
69. The Court may direct that specified activities be suspended until the non-compliance has been rectified and/or that safeguards have been put in place to prevent future non-compliance.
70. Failure to comply with a Court Order constitutes 'contempt of court', a serious offence which may lead to imprisonment.

71. After the issue of some specific enforcement notices, the Council is required to seek an enforcement order from the Court, thus providing the Court with an opportunity to confirm the restrictions previously imposed. Otherwise, the Council will usually only seek a Court Order if the circumstances warrant this action.
72. Criminal Behaviour Orders (CBO's). Where the non-compliance under investigation amounts to anti-social behaviour and, where considered appropriate, a CBO will be sought to stop the activity. We will always liaise with the Anti-Social Behaviour Specialist Team before seeking an Order. This type of action may be used in incidents such as persistent targeting of an individual or a group of individuals in a particular area.
73. Public Spaces Protection Orders (PSPO's) are used to prohibit specified activities relating to anti-social behaviours, and/or require certain things to be done by people engaged in particular activities, within a defined public area.
74. Forfeiture Proceedings - This course of action may be used together with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. Any application for forfeiture will be made to the Magistrates' Court.
75. Proceeds of Crime Applications may be made under the Proceeds of Crime Act 2002 for confiscation of assets in serious cases. The purpose is to recover the financial benefit that the offender has obtained from their criminal conduct. Applications are made after a conviction has been secured.

Compulsory Purchase and Enforced Sale

76. Enforced sale – a power that allows the Council to recover debts registered against the title of a property by forcing its sale. This is a process set out under the Law of Property Act 1925. If the Council utilises this power, it will be done in line with statutes and all relevant guidance to ensure the process is fair and proportionate.
77. Compulsory purchase – a power that allows the Council to purchase a property/land without the consent of the owner. There are various legislative powers that allow compulsory purchase in given circumstances, for example the Town and Country Planning Act 1990. If the Council utilises this power, it will be done in line with statutes and all relevant guidance to ensure the process is fair and proportionate.

Time Limited, Event Specific Powers

78. Where circumstance dictates, 'time-limited' powers may be introduced by central Government to help control certain events or issues. An example of this would be the emergency powers introduced to help limit the spread of coronavirus during the COVID-19 pandemic.
79. Where the Council is empowered to enforce temporary or time limited powers, the following will occur:
 - The appropriate officer (usually the Head of Service or above) will inform the Director of Law & Democracy as to their purpose and how they will be implemented, managed and monitored.

- The appropriate officer (usually the Director or above) will delegate powers to appropriate officers, with the consummate experience, knowledge and, where appropriate, qualifications, to manage and to discharge these duties.
 - A temporary authorisation for the use of the temporary powers, will be issued for relevant officers, which the Authority will be able to produce on request.
 - Where required, officers will be provided with appropriate training.
 - Where required, risk assessments will be amended and/or introduced to cover the use of the temporary powers and any attendant staff safety consequences of said powers.
 - Systems will be adopted or adjusted to ensure the use of the temporary powers can be recorded, monitored and managed.
80. It may be that there are other distinct enforcement agencies empowered to enforce the same or different, but related, powers. Where this is the case, the appropriate officer (usually the Head of Service or above) will ensure that:
- Named individuals of appropriate position in other agencies are contacted and communication lines established.
 - Temporary protocol/s is/are agreed and instigated, that clearly define the roles of the agencies, particularly where there is a joint enforcement role, and how activity will be coordinated, recorded and monitored.
 - A steering group arrangement will be established or co-opted to oversee any activity. Decisions and actions arising from these meetings will be recorded.
 - Where required activities will be effectively coordinated, for example joint operations. This may necessitate the need for the establishment of 'operational groups'. The jointly agreed arrangements and outcomes arising from operations will be recorded.

Byelaws

81. A byelaw is a locally adopted law that can be espoused by the Council. There are a number of acts of parliament that allow this process (enabling Act's). The process for adopting byelaws is set out in [The Byelaws \(Alternative Procedure\) \(England\) Regulations 2016](#). The process is overseen by the Ministry of Housing, Communities and Local Government (MHCLG) and final approval is given by the Secretary of State.
82. Where a byelaw is adopted by the Council the relevant Service will set out how this is used under their own specific Enforcement Policy. An example of an adopted byelaw in Southwark is a byelaw prohibiting horse riding in all but certain named parks.

Formal actions – legal proceedings

83. The Council may prosecute in respect of non-compliance with appropriate legislation in line with the principles set out in this regulatory enforcement policy.
84. The Council's Legal Services must consent to any decision to instigate legal proceedings and shall have regard to the Crown Prosecutions Service's Code for Crown Prosecutors as well as this policy and Southwark Council's overarching Enforcement Policy (2007).

85. The Crown Prosecution Service's Code involves a two-test decision making process namely, an evidential test and a public interest test. If there is insufficient evidence to provide a realistic prospect of conviction, then no prosecution should be undertaken. Where there is sufficient evidence then a prosecution must also be determined to be in the public interest.
86. Successful prosecution can also lead to the disqualification of individuals from specific activities or from acting as company directors. For example, the prosecution of a private sector landlord, or managing agent, may render them 'a not fit and proper person' under the terms of the Council's private sector housing licensing scheme(s).

Decisions on enforcement action

87. Deciding when and how to take enforcement action will be taken on the basis of the following guiding principles.
- a) **Accountability** - to recognise that it is the responsibility of every business and individual to comply with the law and that most want to do so.
 - b) **Proportionality** - to ensure that action taken relates directly to the actual or potential risk to health, safety, the environment, or economic disadvantage to residents, consumers or businesses.
 - c) **Consistency** - to ensure a broadly similar approach is taken in similar circumstances to achieve consistent results with due regard to the specifics of each case.
 - d) **Transparency & Openness** - to ensure that the enforcement action that will be taken by the Council is easily understood and that clear distinctions are made between legal requirements and what are recommendations that not compulsory.
 - e) **Objectivity** - to ensure that decisions are not influenced by reason of ethnicity, gender, gender reassignment, marital and civil partnership status, pregnancy and maternity, disability, sexual orientation, age, socio-economic status, employment status, or religious beliefs of the offender, victim or witnesses.
 - f) **Equality** - to ensure that specific consideration is given to meet any special needs of business proprietors/managers and the public where appropriate. Sensitive consideration will be given where persons involved are children, elderly, infirm or vulnerable because of mental ill-health.
 - g) **Targeting** - to ensure that regulatory action is directed primarily at those activities that present the greatest risk.
 - h) **Deter** – to ensure the perpetrator and others are deterred from repeating the non-compliance.
 - i) **Improve** - to ensure behaviours standards are improved for the benefit of the wider community.
88. Decisions will:
- Take into account whether similar social, environmental or economic outcomes could be achieved without taking enforcement action.

- Take into account risk, negligence or culpability and protect people from any (further) harm.
- Include the details and results of any requirement to consult with other organisations before taking action.

Appealing enforcement decisions & complaints against the service

89. Where there are rights of representation or appeal mechanisms against enforcement decisions these will be communicated in accordance with the relevant statutory obligations. In the absence of such obligations these will be communicated at the same time as the action is taken, or, if that is not possible, as soon as is reasonably practicable afterwards.
90. Service specific standards are usually published on the Council's website. Where these are not available online, they can be advised in writing on request by the relevant enforcement service area or team.
91. An appeal against enforcement action is distinct and separate from a complaint against the conduct of an officer or a service. If the recipient of enforcement action or someone affected by that enforcement action is aggrieved by its imposition, they should seek remedy by way of appeal to the relevant authority/court/tribunal, where they are legislatively allowed to do this. If anyone is dissatisfied with the conduct of Council officers/service, or believes there has been a failure to follow this policy, any related codes, or to meet service standards, a 'complaint about service' can be made using the Council's [corporate complaints procedure](#).

Publicising enforcement actions

92. Enforcement actions outcomes may be published in accordance with the council's communications protocol.
93. Officers should follow the advice of both legal and communications representatives with regard to press releases and other publicity, particularly where details of a particular person, group or business are to be identified. This to ensure the prevention of any data protection non-compliance by the council and to ensure any press releases align with corporate objectives.
94. Enforcement actions and outcomes will only be published with the intention of:
 - Reassuring community stakeholders that legislative non-compliance is taken seriously and dealt with,
 - providing public information on the standards of acceptable conduct and thus to deter others from undertaking similar non-compliant activities,
 - promoting and increasing intelligence about similar issues, and
 - to act as a deterrent to offenders or potential offenders from offending or repeat offending.
95. In all cases the human rights of victims, witnesses, and those against whom action has been taken, shall be taken into account.

Public Registers

96. Certain legislation/statute requires/allows the Council to add details of certain enforcement activity or licensing onto a public register, for example the database of rogue landlords, etc. These will be maintained by the Council in accordance with statute and guidance.

Conduct of Investigations

97. Investigations relating to enforcement activities will be conducted in accordance with relevant legislation and statutory obligations and with regard to any associated guidance or codes of practice, in so far as they relate to the Council and its officers.

98. At the time of publication these include:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Housing Act 1996
- Housing Act 2004
- Criminal Justice and Police Act 2001
- Criminal Procedure and Investigations Act 1996
- Data Protection Act 1998
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Investigatory Powers Act 2016
- Criminal Justice and Police Act 2001
- Legislative and Regulatory Reform Act 2006
- Regulatory Enforcement and Sanctions Act 2008
- Police and Criminal Evidence Act 1984
- Protection of Freedoms Act 2012
- Regulators' Code 2014
- General Data Protection Regulations 2016
- Proceeds of Crime Act 2002

99. These Acts, Regulations and their associated guidance, control investigations and how evidence is collected and used. They give a range of protections to investigating officers, potential defendants and the public.

Authorisation of Officers

100. Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action.
101. Officers will also have sufficient understanding of this regulatory enforcement policy to ensure a consistent approach to their duties.

102. Due regard will be given to the qualification requirement framework applicable to each professional area of enforcement expertise.
103. Officers will always identify which service area they represent. They shall show their official identification or authorisation whenever exercising statutory powers and on request.
104. Details of which officers are authorised to make decisions about enforcement action are contained within the Council's constitution, various schemes of management and in the Council's Scheme of Delegation. These documents along with service specific procedures, can be made available on request.
105. Community Safety Accreditation Scheme (CSAS) – is a voluntary process whereby the chief constable can choose to accredit Local Authority officers with certain police powers to help tackle certain issues, for example the issuing of fixed penalty notices for cycling on a footpath, etc. Where Council Officers have been accredited with these powers they will be set out in the scheme of delegations and will be part of the officer's authorisations.
106. Byelaws – where byelaws are adopted by the Council, they will be set out in the scheme of delegations and will be part of the relevant Council Officers authorisations.

Partners & Protocols

Partners

107. The Council works with a wide range of partners, stakeholders, professional bodies, neighbouring local authorities and partner enforcement agencies (internal and external). The Council values the partners we work with and will engage with them in relation to enforcement activity and procedures where there are dual enforcement roles or specific targeted activity. An example of this would be working with the Immigration Enforcement Service when inspecting businesses where there is intelligence to suggest the business is using an illegal workforce.

Protocols

108. Protocols are developed to help clarify how services will work with other partners, enforcement agencies or internal services in relation to enforcement activity, especially where there are dual enforcement roles. Each service is responsible for developing their own protocols, which will sit as separate documents to the enforcement policies set out at Appendix 2.

Management of Enforcement Action for Vulnerable People

109. The Council has developed a protocol for use by officers when they are considering enforcement action against a resident. It promotes a multi-departmental approach to sharing information about vulnerable people where the information known by one department may affect the decision-making process of another.
110. The protocol helps to ensure that a proportionate approach is taken, properly considering the needs of a vulnerable resident with our responsibility to the wider communities that we serve. It recognises that a person's responsibilities are not mitigated by the presence of a vulnerability, e.g. not to cause a statutory nuisance to others. Safeguarding issues and the support needed to meet responsibilities are key points.

111. Regulatory Services will have regard to this protocol when making enforcement decisions.

Management of Enforcement Action for Minors

112. As a guiding principle across all services, no enforcement action will be taken against any minor without full consultation with the Council's Children's Services.

113. Child sexual exploitation (CSE) is when a child under the age of 18 is manipulated into having sex or engaging in sexual activities, usually in return for something. It is a form of abuse and a crime. This Authority and its partners are committed to tackling and preventing the sexual exploitation of children and young people. It's better to prevent children from being harmed than having to help children recover from the trauma of being sexually exploited. The Council and Southwark Police are carrying out widespread community education to ensure everyone knows what to do to prevent harm to children.

114. Southwark Council, local Police, health services, local schools, community and faith groups and the voluntary sector all come together to keep children safe at the [Southwark Safeguarding Children's Board](#). The Safeguarding Board wants to reach parents, children and young people, and all local organisations with information about stopping child sexual exploitation. There are 9 different "types" of child sexual exploitation. Sexual exploitation often happens alongside other forms of child exploitation, such as forcing children to break the law by carrying drugs or weapons, and using that to blackmail a child. It's easy to understand the danger to children when their "best friend" is a criminal.

Policy status, feedback and review

115. This regulatory enforcement policy has been approved in line with the Council's constitution, following consultation within the council and other enforcement agency stakeholders.
116. This regulatory enforcement policy will be monitored by the Council's Legal Services and reviewed in 2025. This may be brought forward if new legislation is enacted or current legislation is repealed that impacts significantly on the operation or status of this regulatory enforcement policy. Consultation will be sought should a review indicate significant change to the policy is needed.
117. Feedback on the regulatory enforcement policy may be given at any time via corporate complaints or form.

Contact details and obtaining copies of this policy

This policy will be published on the Council's website and will be available to download.

Hard copies are available on request.

The Council's [Accessibility Statement](#) is published on the website

Contact us at:

By letter at
Southwark Council
PO Box 64529
London, SE1P 5LX

By telephone at
Contact centre – Tel: 020 7525 2000

By email at
www.southwark.gov.uk/contact_us

Appendix 1 - Guidance and legislative codes that influenced the preparation of the policy

1 Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires Southwark Council to have regard to the Principles of Good Regulation when exercising a regulatory function specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007. These include those carried out by our environmental health, trading standards and licensing services.

2 Regulators' Code

Southwark has had regard to the Regulators' Code in the preparation of this policy. In certain instances, we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

3 Human Rights Act 1998

Southwark is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

4 The Code for Crown Prosecutors

When deciding whether to prosecute Southwark has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

5 Specific Enforcement Legislation

For a full list of specific legislation covered by this regulatory enforcement policy you are referred to both the service authorisations and officer schemes of delegation.

Appendix 2 – Service areas to which this policy does apply

Directorate	Service area
Environment & Leisure Department	<p data-bbox="628 271 895 300">Regulatory Services</p> <ul data-bbox="676 331 1406 725" style="list-style-type: none"><li data-bbox="676 331 1406 450">• Community Warden Service, Environmental Enforcement, CCTV & Divisional Analytical Business Service (DABS)<li data-bbox="676 481 1406 555">• Commercial Services (Trading Standards, Health & Safety, Food Safety and Environmental Protection)<li data-bbox="676 586 1203 616">• Private Sector Housing Enforcement<li data-bbox="676 647 1406 725">• Neighbourhood Nuisance Services (Noise & Nuisance, Licensing and SASBU)

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