

# Cabinet Meeting

## 16 September 2015

<b>Report title</b>	Joint Black Country Regulators Operating Framework	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Steve Evans City Environment	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Nick Alderman, City Environment	
<b>Originating service</b>	Regulatory Services	
<b>Accountable employee(s)</b>	Andy Jervis	Head of Regulatory Services
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<b>Report has been considered by</b>	Place Leadership Team Strategic Executive Board	

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### Recommendation(s) for action or decision:

Cabinet is recommended to:

1. Approve the proposed draft Black Country Regulators Operating Framework comprising:
  - Regulators and Business Charter
  - Enforcement Policy
  - Service Standardsin relation to Environmental Health, Trading Standards and Licensing services.
2. Endorse the consideration of the principles contained in the Framework by all other City of Wolverhampton Council regulators with a view to their adoption of the Framework as appropriate.

3. Authorise the Head of Regulatory Services to approve the final version of the Framework in consultation with the Cabinet Member for City Environment following any amendments necessary as a result of consultation / comment.
4. Agree to the promotion of the Black Country Regulatory Services 'offer' through the Growth Hub website.

## 1. Purpose

1.1 To seek Cabinet approval of the proposed joint Black Country Regulators Operating Framework in respect to Environmental Health, Trading Standards and Licensing. To delegate authority to the Head of Regulatory Services to approve the final version of the Operating Framework in consultation with the Cabinet Member for City Environment following any amendments necessary as a result of consultation / comment and to obtain approval for the promotion of the Black Country Regulatory Services 'offer' through the Growth Hub website.

1.2 The draft operating framework comprising:

- Regulators and Business Charter
- Enforcement Policy
- Service Standards

is attached at Appendix A.

## 2. Background

2.1 City Environment sits within the Council's Place directorate. The directorate's broad remit includes:

- Growing the economy & creating jobs
- Maximising investment
- Strengthening economic development
- Regenerating the city and in particular the city centre
- Public protection
- Environmental protection

2.2 The directorate is responsible for discharging the majority of the Council's core regulatory and compliance functions. These are delivered, in varying degrees, by Regulatory Services (Environmental Health, Trading Standards & Licensing), Planning (Development Control & Building Control), Housing (Private Sector) and Transportation (Highway Safety & Traffic Management) services. Responsibility for these services falls to both the executive and non-executive parts of the Council. Other areas of regulatory activity exist in respect to child employment, anti-social behaviour, benefits etc.

2.3 The Council's current enforcement policy (Compliance and Regulatory Policy) seeks to ensure, through a fair and proportionate approach to compliance and enforcement that the highest levels of protection are afforded to the residents and visitors to the City of Wolverhampton in relation to public health, the built environment and public realm, housing, environmental protection, food safety, trading standards, historic environment and licensing.

- 2.4 Proportionate, risk based, consistent and supportive regulation, which is aimed at assisting good business with its compliance obligations, plays a key role in delivering, facilitating and complementing these broad aims whilst adequately protecting public and community safety, health and wellbeing. The targeting of resource to the small proportion of intractably non-compliant commercial operations within the city provides both protection to the public through the identification and elimination of risk and also assistance to the majority of good businesses who want to implement and operate at high levels of compliance.
- 2.5 The Council's current Compliance and Regulatory Policy was revised and in October 2014 following the publication of the Better Regulation Delivery Office (BRDO) Regulators' Code and recent corporate restructures following revisions to the Council's budgets. The revised policy reflected the outcomes of recent systems thinking reviews in Environmental Health, Trading Standards and Licensing which shifted the emphasis of regulatory activity more towards compliance assistance and business support.
- 2.6 Although BIS and the BRDO clearly identify Environmental Health, Trading Standards and Licensing as the core regulatory services they wish to see adopting a business friendly approach, many of a local authority's regulatory functions also impact on local businesses. The proposed Operating Framework is therefore suitable to be adopted either in full or in part by a range of other regulatory services including Planning, Housing, Transport, Anti-Social Behaviour, Benefits and Child Employment.
- 2.7 Business support has been identified as one of the five key priorities of the Combined Authority programme. Business support and business 'friendliness' includes, in this context, a robust approach to wilfully non-compliant, fraudulent and/or negligent traders who undermine genuine businesses and damage the economic health of the city.
- 3. Better Business for All (BBfA)**
- 3.1 Better Business for All (BBfA) is a BIS / BRDO (Better Regulation Delivery Office) supported national programme that aims to bring together businesses and regulators to consider and change how local regulation is delivered and received. It involves the creation of groups in specific areas that then shape the way support is provided to businesses by local regulators. Typically, this is done via Local Enterprise Partnerships (LEPs), but this does not have to be the case. In the Black Country, the initiative has been led by a strategic group comprising representatives from Regulatory Services, Federation of Small Businesses, Chamber of Commerce, Black Country Consortium. The Head of Regulatory Services from Wolverhampton represents the sub region at national BIS/BRDO, BBfA strategic meetings and events.
- 3.2 BBfA was initially developed in 2011-2012 by BRDO and two pathfinder LEPs following the Regulation Supporting Enterprise initiative. The approach was piloted and tested and tools were created for embedding culture change so that regulators would be viewed as part of the business support solution. In 2013 the initiative was further rolled out across the regions by 2<sup>nd</sup> phase pilots in certain areas.
- 3.3 Objectives are to provide advice and support to business, increase business awareness of

regulatory officers, ensure effective co-ordination across regulatory services, simplify the local regulatory system and processes, and establish partnerships between regulatory services and local businesses. While BBfA is aimed at all businesses, the focus is on smaller businesses, as these generally need the most help to comply with the law.

- 3.4 BBfA aims to strengthen the relationships that regulatory services have with local businesses and with other local authority services such as building control, economic development and planning. By removing regulatory barriers to growth, it aims to make local areas a good place to do business, and help create more prosperous and competitive local economies. As increasing numbers of businesses become compliant, regulatory services can target more resources at non-compliant and rogue businesses. Regulatory Services local profile is also enhanced by recognition of their role in assisting growth.
- 3.5 Although regulations cannot be changed at a local level their delivery can. This concerns the attitudes, approach and competency of regulatory officers, who have a direct bearing on the way advice is given and visits, inspections and enforcement are carried out. How officers interact with a business can determine whether it decides to grow. When regulatory services encourage expansion and are solution-focused in providing support they can boost the local economy, as well as continuing to protect citizens.
- 3.6 The redesigned Food Safety Service within Wolverhampton's Regulatory Services was developed in parallel but separate to the BBfA programme, however, co-incidentally, is based on all the same BBfA principles. The revised approach of new Food Safety Service has already generated significant benefits in relation to improvements in hygiene standards, reduction in risk, improved perceptions of the service, the council and the city.

#### 4. Black Country Perspective

- 4.1 BIS / BRDO selected 4 Midlands LEPs (including the Black Country) to further pilot and roll-out the Regulation Supporting Enterprise initiative. The pilot integrates the regulation and growth agenda in the following ways:
- Identification of local issues/concerns with regulatory delivery
  - Development of the regulatory and business partnerships
  - Demonstration of commitment to the BBfA programme
- 4.2 In order to deliver the Regulation for Growth initiative, a Black Country steering group was established. The group:-
- Agreed Wolverhampton's Head of Regulatory Services as regional BBfA representative: ***The BBfA representative chaired the initial working group established to progress the initiative.***
  - Undertook a perception survey amongst Black Country businesses: ***The survey showed a very positive perception of Wolverhampton food regulators by Wolverhampton food businesses.***
  - Developed an action plan to deliver the Regulation for Growth objectives: ***The BBfA representative drafted an initial action plan to meet BRDO requirements.***

- Using BRDO funding, commissioned an early report to obtain practitioner insights into the current and likely future relationship between local regulatory services and economic growth: ***The report illustrated the present culture shift amongst Black Country Regulators towards a business supportive approach.***

4.3 Following this early progress, the Black Country steering group, again using BRDO funding, commissioned a further report to enhance the impact of the project in the Black Country. This second report, currently in draft form, makes a number of recommendations which are in the process of implementation:

- Develop the content for Meet the Regulator workshop/events
- Review the local governance and delivery structures to form business and regulator focus groups.
- Representation at Black Country Chamber and FSB events
- Regulatory Service representation on the Growth Hub Steering Group and promotion of Regulatory Services via the Growth Hub website.
- Development of a Black Country Operating Framework to include:
  - Regulators and Business Charter
  - Enforcement Policy
  - Service Standards

4.4 All of these are in the process of implementation. However this report focuses on the last of the recommendations.

## 5. The Regulators' Code

5.1 Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Regulator's Code when developing policies and operational procedures that guide their regulatory activities.

5.2 Regulators must equally have regard to the Code when setting standards or giving guidance which will inform the activities of other regulators.

5.3 The Regulators' Code contains six basic principles which are set out below:

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
- Regulators should base their regulatory activities on risk
- Regulators should share information about compliance and risk
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- Regulators should ensure that their approach to their regulatory activities is transparent.

## **6. Proposed Black Country Regulators Operating Framework**

- 6.1 A draft Operating Framework comprising Regulators and Business Charter, Enforcement Policy and Service Standards have been developed for consideration and endorsement.
- 6.2 The draft Black Country Enforcement Policy has been reviewed and revised to reflect the requirements of the Regulators Code set out in section 5.3 above and is an evolution of the existing Wolverhampton Policy which has been in place in a similar guise, implementing the principles of the Regulators Code and its precursors, for many years. The document will ensure the same approach, aligned to BBfA principles, is applied across all relevant regulatory services within the Black Country region.
- 6.3 The Charter and Service Standards have been developed specifically to complement the policy, the new approach to regulation and the principles enshrined within BBfA.
- 6.2 Facilitated by the Chamber of Commerce and the Federation of Small Businesses, the component parts of the draft framework have been out to consultation amongst regulatory partners and the commercial sector since 01 July 2015. The consultation window closed on 31 August after which, final amendments will be made to the appropriate parts of the framework and the final version will be approved and published on the Council's website.

## **7. Financial Implications**

- 7.1 All costs associated with the delivery of regulatory functions in accordance with the operating framework can be accommodated within approved Regulatory Service revenue budgets.
- 7.2 Councillors should be aware however of the reduced budgetary provision and associated staffing resource associated with the Council's Regulatory Service. This will inevitably impact upon both the range of issues the service is capable of responding to and also the time taken to initiate a response.  
[TK/23072015/M]

## **8. Legal Implications**

- 8.1 No legal proceedings are instigated without the requisite consultation with Legal Services. Prosecutions are authorised by the Head of Service or a Director in consultation with the Solicitor to the Councillor nominee who will have regard to the adopted regulatory policy in addition to the Code for Crown Prosecutors and other relevant guidance and legal issues in making a determination.  
[RB/14072015/Y]

## **9. Equalities Implications**

- 9.1 The policy has been subject to an equalities screening. The policy is a mandatory requirement for local authorities and observes a format recommended by BIS/BRDO. It aims to ensure an appropriate balance between levels of compliance and economic

impact on local businesses and individuals without jeopardising public wellbeing, health and safety.

- 9.2 Furthermore, the policy aims to be proportionate, transparent consistent and risk based. It aims to remove or reduce any inequalities to acceptable levels and therefore is anticipated to have a positive impact on equalities.
- 9.3 All formal enforcement decisions are made with regard to the requirements of the Code for Crown Prosecutors which focus on the admissibility of evidence and the public interest of bringing proceedings. Any adverse impacts on equality will be identified and dealt with at this stage.
- 9.4 The policy seeks to target long term non-compliance and provide compliance assistance where required. Both demands are often associated with the more deprived areas of the city. The policy therefore addresses the higher levels of risk these issues expose consumers from these areas to.
- 9.5 For these reasons, it was not necessary to undertake a full equalities analysis at this time. However, implementation of the policy will be monitored and if necessary, further equalities screenings and / or a full analysis will be undertaken as appropriate.

## **10. Environmental Implications**

- 10.1 A significant proportion of the activities and functions undertaken by the Council's regulatory services are intended to protect and enhance Wolverhampton's natural, commercial and built environments.
- 10.2 Proportionate, appropriate and focussed regulation can have significant positive impacts on the environmental amenity of buildings, land and entire neighbourhoods.

## **11. Schedule of background papers**

- 11.1 Cabinet have considered previous reports on Regulatory Policy on many previous occasions.



## Appendix A

# BLACK COUNTRY REGULATORS OPERATING FRAMEWORK

## Regulator and Business Charter

### Black Country Local Authorities Enforcement Policy

### Black Country Local Authorities Service Standards

## Black Country Local Enterprise Partnership

### Regulator and Business Charter

#### Aim

The aim of this charter is to make arrangements between the regulatory services of the Local Authorities in the Black Country and the local business community to provide a regulatory environment that;

- Reduces the regulatory burden on businesses.
- Promotes dialogue between businesses and regulatory services.
- Improves the business perception of regulators.
- Encourages the right balance between encouragement, education and enforcement.
- Develops a joint offer of support from regulatory services for businesses.
- Builds trust between regulators and businesses.

Delivery of the charter will help promote success in business whilst continuing to provide public protection.

The charter sets out roles and responsibilities for both regulators and the businesses community to achieve this aim.

#### Implementation

Local regulatory services directly influence the prosperity and well-being of our community. Regulation, delivered effectively and efficiently, can help businesses grow and, in turn, generate jobs and the tax revenues that benefit the whole community.

Local authorities and national regulators will work in collaboration and align their services to deliver the following commitments:

**Local regulatory services will;**

1. Support businesses by providing advice and guidance that helps them understand and meet their responsibilities.
2. Create an environment where businesses feel confident to seek advice from a regulator without fear of attracting enforcement activity.
3. Take ownership of any enquiry made to us by business until a satisfactory response is made. Make advice about regulation accessible to business through a website/phone app single point of contact
4. Ensure that all service delivery staff are competent and adopt a professional attitude when engaging with business. Consistency seminars will be provided to ensure that regulation is applied fairly and effectively across the LEP area, and to improve business understanding among staff.
5. Take a risk and intelligence led approach to all compliance and enforcement activities, ensuring protection of consumers, workers, public health and the environment whilst providing a level playing field for business. Recognition= will be given to businesses that can demonstrate effective controls.
6. Improve transparency by publishing our approach to compliance and enforcement that explains what the regulator will do and why.
7. Consult with local businesses to shape service delivery and develop innovative regulatory approaches that promote business success.
8. Be accountable to business, giving them confidence to make comment and criticism through the propose LEP feedback mechanism.

**The Chambers of Commerce, Federation of Small Businesses and trade organisations will encourage the business community, through publicity, forums, emails and mail shots to:**

1. Access regulatory advice by asking any regulator a question or through the one stop web/phone app.
2. Be confident in approaching regulators for advice without fear of enforcement activity.
3. Use the proposed LEP feedback mechanism to provide feedback, good and bad, after interactions with regulators
4. Build a positive relationship with regulators that improves compliance amongst the business community and supports business growth within the LEP area.
5. Acknowledge the contribution made by regulators and support positive publicity when there are improvements in business engagement with regulatory services.

6. Help other businesses to succeed through participating in a business mentor scheme.
7. Engage in business and Regulator forums, and other opportunities, to shape regulation delivery in the LEP area.

**Evaluation and review**

This charter will be reviewed and revised annually.

# Black Country Local Authorities ENFORCEMENT POLICY



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## **Enforcement Policy For Dudley Council, Sandwell Council, Wolverhampton City Council and Walsall Council**

### **A. Principles of Good Regulation**

The Legislative and Regulatory Reform Act 2006, Part 2, requires the authorities named above to have regard to the Principles of Good Regulation when exercising a specified regulatory function<sup>1</sup>. For local authorities, the specified functions include those carried out by the services referenced in Annex 1.

We will exercise our regulatory activities in a way which is:

- (i) Proportionate – the Regulators’ Code promotes proportionate regulatory activity, which includes taking appropriate action where non-compliance is identified. The Public Interest Stage contained in the Code for Crown Prosecutors and can be accessed at [http://www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/) will always be considered when determining whether it is right to prosecute. Our activities will reflect the impact of the offending on those living in, working in and visiting the area and enforcement action taken will relate to the seriousness of the offence.
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in a consistent manner.
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities and intelligence.

### **B. Regulators’ Code**

The Regulators' Code has been a central part of the Governments’ better regulation principles for some time now. Its aim is to embed a risk based, proportionate and targeted approach to regulatory inspection and enforcement

The authorities and services have 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, is outweighed by another provision or does not legally apply to some aspects of regulatory activity. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

The Regulators’ Code can be accessed at:

<https://www.gov.uk/government/publications/regulators-code>

### **C. The Code for Crown Prosecutors**

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<sup>1</sup> Specified by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, available at [www.legislation.gov.uk](http://www.legislation.gov.uk)

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

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

a. Evidential Test - is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, each Authority will consider what evidence can be used in court and is reliable. They must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

b. Public Interest Test - is it in the public interest for the case to be brought to court?

Each Authority will balance factors for and against prosecution carefully and fairly, considering each case on its merits. Before deciding that prosecution is appropriate each Authority will consider the matters which, in the opinion of the Authority, are relevant and will have regard to the public interest. Their decision will reflect the impact of the offending on those living and working in the Boroughs.

#### **D. Regulatory Enforcement and Sanctions Act 2008 ('the RES Act')**

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

#### **E. Conduct of Investigations and Sanctions**

All investigations will be carried out under the following legislation and in accordance with statutory powers and any associated guidance or codes of practice, in so far as they relate to the Authorities :

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998
- The Protection of Freedoms Act 2012 (Code of Practice for Powers of Entry and Description of Relevant Persons) Order 2015
- Data Protection Act 1998
- Consumer Rights Act 2015



**i. Compliance Advice, Guidance and Support**

The Authorities use compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter (sometimes called an ‘informal caution’) will set out what should be done to rectify the breach and to prevent re-occurrence. We will always make it clear what is a legal requirement and what is best practice. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence.

The Authorities recognise that where a business has entered into a partnership with a primary authority, the primary authority will provide compliance advice and support, and the Authorities will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the primary authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, the Authorities recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

**ii. Voluntary Undertakings**

The Authorities may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The Authorities will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

**iii. Statutory (Legal) Notices**

In respect of many breaches the Authorities have powers to issue statutory notices. These include: ‘Stop Notices’, ‘Prohibition Notices’, ‘Emergency Prohibition Notices’, and ‘Improvement Notices’. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default, the costs of which may be recovered at a later date.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

#### **iv. Financial penalties**

The Authorities have powers to issue fixed penalty notices in respect of some breaches. A fixed penalty notice is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty is not paid, the relevant Authority may commence criminal proceedings or take other enforcement action in respect of the breach.

If a fixed penalty is paid in respect of a breach the relevant Authority will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

If fixed penalty notices are available, it is the discretion of each Authority to opt to issue a fixed penalty notice. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is considered more appropriate than the issue of a fixed penalty notice.

#### **v. Injunctive Actions, Enforcement Orders etc.**

In some circumstances an Authority may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

Authorities are required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, Authorities will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

#### **vi. Simple Caution**

The Authorities have the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, the Authority is likely to consider prosecution.

A simple caution will appear on the offender's criminal record. It is likely to influence how the Authority and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

#### **vii. Prosecution**

Where the circumstances warrant it and the alternative actions detailed previously in this policy are considered inappropriate, then prosecution may result. Any decision to prosecute will take into account the criteria set down in the Code for Crown Prosecutors, Attorney General's Guidelines and in consultation with the Council's legal services.

The criteria to be considered will include where relevant: -

- a) The nature of the alleged offence;
- b) Where appropriate, the previous history of the party concerned;
- c) The likelihood of a successful prosecution;
- d) The availability and quality of evidence and of any witnesses and their willingness to co-operate;
- e) The public benefit from prosecution and the significance of the case;

Each Authority may prosecute without prior warning or recourse to alternative sanctions where the circumstances warrant it and the evidence to support the case is available.

Prosecution will only be considered where the relevant Authority is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s). Due consideration will be given to the availability and compliance with any relevant statutory defence.

Before deciding that prosecution is appropriate, the relevant Authority will consider all relevant circumstances carefully and will have regard to the public interest and, where appropriate, the views of any victim, injured party or other relevant person or impact on the community.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any assets or profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

#### **viii. Refusal/Suspension/Revocation of Licences**

The Authorities issue a number of licences and permits and also have a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment. A review of a licence may be considered in addition to or as an alternative to any other action.

When considering future licence applications, each Authority may take previous breaches and enforcement action into account.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

Subject to the exigencies of an investigation, officers will notify the individuals or business they are investigation as soon as is reasonably practicable. The Authorities will endeavour to make timely decisions about the progress of the investigation and decisions on the most appropriate action. The person or business subject to any investigation will be informed of the outcome.

## **F. Complaints and Appeals**

Where any enforcement action is conducted under legislations which contains a specific appeals procedure, you will be advised of that procedure at the required time.

Should you have any concerns or complaints about the actions of any authorised officers of the relevant Authorities, then these should be made in the first instance to the manager of the service or team in question. If the matter is not resolved at this stage, each Authority has a formal complaints procedure which should then be followed. Details of how to complaint to each Authority can be found at Annex 2

## **G. Equal Opportunities**

The Authorities are committed to delivering their operational activities in accordance with Equal Opportunities Policies and the regions commitment to Equalities. Officers are also committed to work flexibly to meet service users' needs as far as practicable, particularly where those users are from a disadvantaged or vulnerable group.

## **H. Monitoring and Review**

All proposed enforcement actions shall be assessed against this policy by the investigating officers concerned in conjunction with line or the service manager and legal services team of each Authority, where appropriate

Each Authority will monitor performance against this policy.

## Annex 1 Services Within Scope Of This Policy

<p><b>Dudley Metropolitan Borough Council</b></p> <ul style="list-style-type: none"> <li>• Regulatory Services       <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> <li>○ Licensing</li> </ul> </li> </ul>	<p><b>Sandwell Metropolitan Borough Council</b></p> <ul style="list-style-type: none"> <li>• Regulatory Services       <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> <li>○ Licensing</li> <li>○</li> </ul> </li> <li>• Housing       <ul style="list-style-type: none"> <li>○ Public Sector Housing</li> <li>○</li> </ul> </li> </ul>
<p><b>Walsall Metropolitan Borough Council</b></p> <ul style="list-style-type: none"> <li>• Regulatory Services       <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> <li>○ Licensing</li> <li>○ Unauthorised Encampments</li> </ul> </li> <li>• Transportation       <ul style="list-style-type: none"> <li>○ Highway safety</li> </ul> </li> </ul>	<p><b>Wolverhampton City Council</b></p> <ul style="list-style-type: none"> <li>• Regulatory Services       <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> <li>○ Environmental Crime</li> <li>○ Highways</li> <li>○ Licensing(Licensing Act 2003, taxi and private hire, scrap metal, gambling premises, street collections, house to house collections, sex establishments, street trading)</li> </ul> </li> </ul>

## **Annex 2 Complaints**

Complaints can be made to each authority as detailed below:

### **Dudley Metropolitan Borough Council**

In the first instance, complaints should be addressed to:

Dolores Nellany,

Public Protection Manager (Food and Consumer Safety) or Tim Glews, Public Protection Manager (Environmental Safety and Health)

Dudley MBC

4 Ednam Road

Dudley

DY1 1HL

If the matter is not resolved, further details on the corporate complaints procedure can be found at: <http://www.dudley.gov.uk/resident/your-council/compliments-comments-complaints/>

### **Sandwell Metropolitan Borough Council**

In the first instance, complaints should be addressed to:

The Service Manager

Name of Service

Sandwell Council

PO Box 2374

Oldbury

B69 3DE

If the matter is not resolved, further details on the corporate complaints procedure can be found at [http://www.sandwell.gov.uk/info/200195/contact\\_the\\_council/283/feedback\\_and\\_complaints](http://www.sandwell.gov.uk/info/200195/contact_the_council/283/feedback_and_complaints)

### **Walsall Metropolitan Borough Council**

In the first instance, complaints should be addressed to:

Environmental Health Manager or Trading Standards Manager

Walsall Council

The Civic Centre

Darwall Street

Walsall

WS1 1TP

If the matter is not resolved, further details on the corporate complaints procedure can be found at <http://cms.walsall.gov.uk/index/tellus.htm>

### **Wolverhampton City Council**

In the first instance, complaints should be addressed to:

Andy Jervis

Head of Regulatory Services

Wolverhampton Council

Civic Centre

St Peter's Square

Wolverhampton

WV1 1SH

If the matter is not resolved, further details on the corporate complaints procedure can be found at <https://www.wolverhampton.gov.uk/complaints>

# BLACK COUNTRY AUTHORITIES SERVICE STANDARDS





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## Service Standards For Dudley Council, Sandwell Council, Wolverhampton City Council and Walsall Council Regulatory Services

### A. What You Can Expect From Regulatory Services In The Black Country

This document explains what you can expect of Regulatory Services across the Black Country Local Authorities' Regulatory Services. Whether you are run a business, are an employee or a member of the public, we are committed to providing you with an efficient, courteous and helpful service and this document tells you how we aim to do that and what standards we will meet.

### B. Areas We Regulate

Each Authority delivers the following services

<p><b>Dudley Metropolitan Borough Council</b></p> <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> </ul>	<p><b>Sandwell Metropolitan Borough Council</b></p> <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> <li>○ Licensing (Licensing Act 2003, scrap metal, sex establishments, gambling premises)</li> </ul>
<p><b>Walsall Metropolitan Borough Council</b></p> <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> <li>○ Environmental Crime</li> <li>○ Licensing (Licensing Act 2003, taxi and private hire, scrap metal, gambling premises, street collections 7 house to house collections, sex establishments, street trading,)</li> </ul>	<p><b>Wolverhampton City Council</b></p> <ul style="list-style-type: none"> <li>○ Environmental Health</li> <li>○ Trading Standards</li> <li>○ Environmental Crime</li> <li>○ Highways enforcement</li> <li>○ Licensing (Licensing Act 2003, taxi and private hire, scrap metal, gambling premises, street collections, house to house collections, sex establishments, street trading)</li> </ul>

### C. How We Deliver Our Services

We make a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing. Our aims are to:

- Protect the public, businesses and the environment from harm
- Support the local economy to grow and prosper
- Protect and promote the health and wellbeing of our residents

We determine our activities by assessing the needs of local people and our business community, and considering the risks that require addressing. We do this through engagement with a range of groups and organisations, including:

- local communities and local community forums
- elected members
- the voluntary sector
- individual businesses and business organisations
- partners and stakeholders

This is done through the use of complaints, intelligence, data and other information available to us and our partners and reflecting each Authority's strategic priorities. In this way we ensure our resources are targeted appropriately in the light of these local needs and of national priorities.

We carry out all our activities in a way that supports those we regulate to comply and grow:

- We ensure that information, guidance and advice is available to help you to meet legal requirements (see [Helping you to get it right](#) at section E below).
- We carry out inspections and a wide range of other enforcement activities to check compliance with legal requirements, and we target these checks where we believe they are most needed (see [Inspections and other compliance visits](#) at section F below).
- We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary (see [Responding to non-compliance](#) at section G below).
- We provide a range of services to businesses, including [*add list eg. pest control, licences, registrations, issue of certificates*] (see [Requests for our service](#) at section H below).

Our services will be delivered in accordance with the requirements of the [Regulators' Code](#)

#### **D. Working With You**

In all your dealings with us you can expect, and will receive, an efficient and professional service. Our officers will:

- Be courteous and polite
- Always identify themselves by name in dealings with you, and provide you with contact details
- Seek to gain an understanding of how your business operates
- Provide details of how to discuss any concerns you may have
- Agree timescales, expectations and preferred methods of communication with you
- Ensure that you are kept informed of progress on any outstanding issues.

We recognise that your business will receive advice and inspections from other organisations, and we will do our best to work with them to ensure that you receive the best service.

## **E. Helping You To Get It Right**

We want to work with you to help your business to be compliant and successful and it is important to us that you feel able to come to us for advice when you need it. We won't take enforcement action just because you tell us that you have a problem.

Information and guidance on meeting legal requirements is available through the Business Companion Website [www.businesscompanion.info](http://www.businesscompanion.info) In addition there is a regional Trading Standards Business News Service which is published quarterly on line <http://portfolio.cpl.co.uk/portfolio/TSBN>

Where you need advice that is tailored to your particular needs and circumstances we will:

- Discuss with you what is required to achieve compliance
- Provide advice that supports compliance and that can be relied on
- Provide clear advice that can be easily understood and implemented
- Distinguish legal requirements from suggested good practice
- Ensure that any verbal advice you receive is confirmed in writing if requested
- Acknowledge good practice and compliance.

The Authorities in the Black Country operate the "Home Authority" principal. Any business based within the area of each Authority and which trades on a regional or national basis may benefit from a single source of advice in a specific area of legislation for all their business operations. Further, Sandwell and Walsall operate the Primary Authority scheme. This provides that businesses which have been accepted onto the scheme and have signed a formal Primary Authority Agreement can benefit from Assured Advice. Advice provided under the Primary Authority Regime is chargeable on a cost recovery basis.

Certain other areas of work undertaken by the Authorities, including licensing regimes, certain other business advice, and certain metrology service are also chargeable. Details of each Authority's fees are available on each Local Authority's website or can be provided on request.

## **F. Inspections And Other Compliance Visits**

We monitor and support compliance in a number of different ways including through inspections, sampling visits, test purchases, advisory visits and complaint investigations. These visits will always be based on an assessment of risk – we won't visit without a reason.

We will give you notice that we intend to visit unless we have specific reason to believe that an unannounced visit is more appropriate.

When we visit you our officers will:

- Explain the reason and purpose of the visit
- Carry their identification card at all times, and present it on request when visiting your premises
- Exercise discretion in front of your customers and staff
- Have regard to your approach to compliance, and use this information to inform future interactions with you

- Provide information, guidance and advice to support you in meeting your statutory obligations, if required
- Provide a written record of the visit.

## **G. Responding To Non Compliance**

Where we identify any failure to meet legal obligations, we will respond proportionately, taking account of the circumstances, in line with our Enforcement Policy [*add link*].

We deal proportionately with breaches of the law as set out in our Enforcement Policy, available at [*link to be added when finalised*], including taking firm enforcement action when necessary

Where we require you to take action to remedy any failings we will:

- Explain the nature of the non-compliance
- Discuss what is required to achieve compliance, taking into account your circumstances
- Clearly explain any advice, actions required or decisions that we have taken
- Agree timescales that are acceptable to both you and us, in relation to any actions required
- Provide in writing details of how to appeal against any advice provided, actions required or decisions taken, including any statutory rights to appeal
- Explain what will happen next
- Keep in touch with you, where required, until the matter is resolved

## **H. Requests For Our Services**

We clearly explain the services that we offer, including details of any fees and charges that apply.

In responding to requests for our services, including requests for advice and complaints about breaches of the law, we will:

- Acknowledge your request within 5 working days (*can discuss*)
- Tell you when you can expect a substantive response
- Seek to fully understand the nature of your request
- Explain what we may or may not be able to do, so that you know what to expect
- Keep you informed of progress throughout our involvement
- Inform you of the outcome as appropriate

Contact details for the services in each authority can be found at Annex .1

We will seek to work with you in the most appropriate way to meet your individual needs. We can make information available in different formats, and have access to translation and interpretation services.

If you contact us we will ask you for your name and contact details to enable us to keep in touch with you as the matter progresses. We treat all contact with the service in confidence unless you have given us permission to share your details with others as part of the matter we are dealing with on your behalf or there is an operational reason why we need to do so. We will respond to anonymous complaints and enquiries where we judge it appropriate to do so.

Personal data will be managed in accordance each Authority's Data Protection Policy, a copy of which is available on their respective websites or can be provided on request.

## **I. Our Team**

We have a dedicated team of officers who have the appropriate qualifications, skills and experience to deliver the services provided. We have arrangements in place to ensure the ongoing professional competency of all officers.

Where specialist knowledge is required in an area outside of our expertise we have arrangements in place, with both neighbouring authorities and other regulatory organisations, to call on additional resources as necessary.

## **J. Working With Others**

We work closely with other council services such as Planning and Economic Development and our aim is to provide a streamlined service to you.

We are part of a much wider regulatory system in *the area of* each Authority. We have good working relationships with other regulators such as West Midlands Police, DEFRA, West Midlands Fire & Rescue, and this enables us to deliver a more joined up and consistent service. This includes sharing information and data on compliance and risk, where the law allows, to help target regulatory resources.

Our officers are familiar with the work of our partners and can signpost you to the advice and guidance you need. We are members of the Central England Trading Standards Authorities (CEntSA); *EH regional groups*; *Licensing Regional Groups* and the Black Country Local Enterprise Partnership.

## **K. Having Your Say**

- ***Complaints and appeals***

Where we take enforcement action, there is often a statutory right to appeal. We will always tell you about this at the appropriate time.

We are always willing to discuss with you the reasons why we have acted in a particular way, or asked you to act in a particular way. You can contact the manager of the service which is dealing with this matter.

We manage complaints about our service, or about the conduct of our officers, through each Authority's Corporate Complaints Policy. Details can be found at Annex 2

- ***Feedback***

We value input from you to help us ensure our service is meeting your needs. We would like to hear from you whether your experience of us has been good or in need of improvement. This helps us to ensure we keep doing the right things and make changes where we need to. We use customer satisfaction surveys from time to time but we would

welcome your feedback at any time. You can provide feedback using the contact details in Annex 1.

Any feedback that we receive will be acknowledged, considered and responded to.

- ***Developing our services with you***

We have a number of groups that we consult with to ensure that we are delivering our services to meet your needs. We are always happy to welcome new members to these groups. We currently work with the Black Country Local Enterprise Partnership, the Black Country Chamber of Commerce, and local business groups in each authority.

If you are interested in finding out more about the work of these groups, or participating in one, please visit or contact us.



## Annex 1 How to Contact Us:

### Dudley Council

Trading Standards & Environmental Health	Name of service Directorate of the Urban Environment 4 Ednam Road Dudley DY1 1HL
Telephone TS	0845 330 3313
Telephone EH	0300 555 2345

### Sandwell Council

Trading Standards and Licensing	Trading Standards and Licensing Homes and Communities Directorate Sandwell Council House PO Box 2372 Oldbury B69 3BS
Telephone	0121 569 6535
Email	<a href="mailto:trading_standards@sandwell.gov.uk">trading_standards@sandwell.gov.uk</a> <a href="mailto:licensing_team@sandwell.gov.uk">licensing_team@sandwell.gov.uk</a>
Environmental Health	
Telephone	0121 569 6600
Email	<a href="mailto:ehs_enquiries@sandwell.gov.uk">ehs_enquiries@sandwell.gov.uk</a>

### Walsall council

Address for all services	Name of Service Civic Centre Darwall Street Walsall WS1 1TP
Environmental Health	<a href="mailto:environmentalhealth@walsall.gov.uk">environmentalhealth@walsall.gov.uk</a> 01922 653030

Trading Standards	<a href="mailto:tradingstandards@walsall.gov.uk">tradingstandards@walsall.gov.uk</a> 01922 653040
Licensing	<a href="mailto:licensing@walsall.gov.uk">licensing@walsall.gov.uk</a> 01922 653050 <a href="mailto:licensingenforcement@walsall.gov.uk">licensingenforcement@walsall.gov.uk</a> 01922 653060

### **Wolverhampton Council**

	Trading Standards, Environmental Health & Licensing Wolverhampton City Council 1st Floor Civic Centre, St Peter's Square Wolverhampton WV1 1DA
Telephone TS	03454 040506
Telephone EH	01902 551155

## **Annex 2: How to Comment or Complain**

Comments and complaints can be made to each authority as detailed below:

### **Dudley Metropolitan Borough Council**

In the first instance, complaints should be addressed to:

Dolores Nellany, Public Protection Manager (Food and Consumer Safety)

or Tim Glews, Public Protection Manager (Environmental Safety and Health)

Dudley MBC

4 Ednam Road

Dudley

DY1 1HL

If the matter is not resolved, further details on the corporate complaints procedure can be found at: <http://www.dudley.gov.uk/resident/your-council/compliments-comments-complaints/>

### **Sandwell Metropolitan Borough Council**

In the first instance, complaints should be addressed to:

The Service Manager

Name of Service

Sandwell Council

PO Box 2374

Oldbury

B69 3DE

If the matter is not resolved, further details on the corporate complaints procedure can be found at [http://www.sandwell.gov.uk/info/200195/contact\\_the\\_council/283/feedback\\_and\\_complaints](http://www.sandwell.gov.uk/info/200195/contact_the_council/283/feedback_and_complaints)

### **Walsall Metropolitan Borough Council**

In the first instance, complaints should be addressed to:

Environmental Health Manager or Trading Standards & Licensing Manager

Walsall Council

The Civic Centre

Darwall Street

Walsall

WS1 1TP

If the matter is not resolved, further details on the corporate complaints procedure can be found at <http://cms.walsall.gov.uk/index/tellus.htm>

### **Wolverhampton City Council**

In the first instance, complaints should be addressed to:

The Service Manager

Name of Service

Wolverhampton Council

Civic Centre

St Peter's Square

Wolverhampton

WV1 1SH

If the matter is not resolved, further details on the corporate complaints procedure can be found at <https://www.wolverhampton.gov.uk/complaints>