



Place Directorate Enforcement Policy

March 2025

Date of next review March 2028

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1. Introduction

- 1.1 Trafford Council carries out a range of regulatory roles to meet its statutory duty to protect the public, individuals and the environment and seeks to encourage and promote compliance. At the same time, a thriving local economy is promoted when these functions are carried out in an equitable, practical, and consistent way. The Council's Place Directorate is committed to achieving these aims and maintaining a fair and safe trading environment.

The Council regards prevention as better than cure and recognises that most businesses and individuals want to comply with the law. We will, therefore, take care to help businesses and others to meet their obligations without unnecessary expense, whilst taking action, including prosecution, against those who flout the law, act irresponsibly or have a detrimental effect on the life of those living in the locality

- 1.2 The Council's Place Directorate enforcement functions are extensive and include,

Environmental Health	Trading Standards
Licensing	Private Sector Housing
Environmental Protection	Sports Ground Safety
Community Safety	Building Control
Environmental Improvement	Planning Enforcement
Highways	Parking

- 1.3 This policy sets out the general principles which the services will follow in relation to enforcement and prosecution. This is in accordance with the [Regulator's Code](#) and the regulatory principles required under the [Legislative and Regulatory Reform Act 2006](#). The Council will also follow the [Health and Safety Executive's Enforcement Policy Statement](#) where enforcement decisions are made in relation to the provisions of the Health and Safety Act 1974.
- 1.4 In certain instances, we may conclude that a provision in the Regulator's 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.
- 1.5 Trafford Council is also 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.
- 1.6 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.

2. Principles of Good Regulation

2.1 We will exercise our regulatory activity in a way which is:

Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,

Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,

Consistent – we aim to carry out our duties in a fair, equitable and consistent manner. Consistency does not mean simple uniformity. Officers will need to exercise their professional judgement and discretion according to the circumstances of each individual case.

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

Targeted – we will focus our resources on activities that are likely to give rise to the most serious breaches of legislation and reflecting local need and national priorities.

2.2 Avoiding potential conflicts of interest

The Council is fully aware of the potential conflicts of interest that may arise in an enforcement situation either through the operation of council run services, the contracting in of enforcement services or responsibilities under the primary, lead, or originating authority principles. The Directorate will therefore discharge its enforcement duties impartially in accordance with the principles of this policy.

Visits to Council operated premises will be carried out in accordance with the appropriate legislation and relevant Codes of Practice. Any serious or significant contraventions detected during such visits will be notified in writing to the appropriate Director and copies sent to the service's Corporate Director without undue delay.

3 Dealing with non-compliance

3.1 Trafford Council's approach to enforcement of the sanctions and penalties available will be to aim to:

- Change the behaviour of the offender;
- Change attitudes in society of offences which may not be serious in themselves but which are widespread;
- Eliminate any financial gain or benefit from non-compliance;

- Be responsive and consider what is appropriate for the particular offender and regulatory issue which can include punishment and the public stigma that should be associated with a criminal conviction;
 - Be proportionate to the nature of the offence and the harm caused;
 - Restore the harm caused by regulatory non-compliance, where appropriate; and
 - Deter future non-compliance.
- 3.2 We are committed to clearly explaining any non-compliance and any advice given, actions required, or decisions taken, with reasons for these, and where appropriate will always provide an opportunity for dialogue.
- 3.3 All enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.
- 3.4 We will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss and its significance in making the decision to take formal action. This may include actual or potential harm or loss, or the impact on the well-being of individuals, or potential or actual harm to communities or the environment.
- 3.5 We will endeavour to ensure that those regulated can seek advice from the service about potential non-compliance without automatically triggering enforcement action. Each matter will be considered on its own merits and will determine the action by the service.
- 3.6 All investigations will be carried out lawfully having regard to legislation and in accordance with any associated guidance or codes of practice, 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.

4 Purpose and methods of enforcement

- 4.1 The purpose of enforcement is to ensure that preventative or remedial action is taken to secure compliance with legal requirements. In addition, we will ensure that duty holders take action to deal immediately with serious risks. Our preferred method of ensuring compliance is by working together with those who are regulated. Although the Council expects full voluntary compliance with legal requirements, it will not hesitate to use its enforcement powers where necessary.
- 4.2 In assessing what enforcement action is necessary and proportionate, consideration will be given to, amongst other things:
- The seriousness of the compliance failure.
 - The past and current performance of any business and/or individual concerned.

- Any obstruction on the part of the offender.
- The risks being controlled.
- Statutory guidance.
- Codes of Practice.
- Any legal advice.
- Any local policies and priorities.
- A person's age in relation to young people (termed 'juveniles') aged under 18.
- The existence of a Primary Authority agreement.

There are a variety of enforcement actions available to the directorate, key examples are provided below, which is not an exhaustive list as there are other regulatory enforcement options that may also be appropriate under relevant legislation depending on the individual circumstances of a particular case

Enforcement Type	Enforcement Action
Advice / Education	For minor breaches of the law we may give verbal or written advice. We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done.
Warning letter	Written communication with the business / individuals / households, to help them how to comply with the law. Failure to comply could result in an escalation of enforcement action.
Voluntary Undertakings	In some circumstances the Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The Council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.
Statutory notices	Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed will be reasonable, take into account the seriousness of the contravention, the implications of the non-compliance and the appeal period for that notice.
Works in Default	Where there is a failure to carry out works specified in a statutory notice, the directorate may carry out such works in

	default and recharge the cost of the works to the recipient of the notice.
Fixed Penalty Notices	The Council has the power to issue Fixed Penalty Notices for certain offences. They are recognised as a low-level enforcement tool and can be used as an alternative to prosecution. Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice (FPN), we may choose to administer a FPN on a first occasion, without issuing a warning. Failure to accept or pay a FPN may result in prosecution for the original offence, alternative enforcement action or civil action to recover the debt.
Penalty Charge Notices	Penalty Charge Notices (PCN) are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the enforcer in recognition of the breach. Failure to pay the PCN will result in the offender being pursued in the County Court for non-payment of the debt. A PCN does not create a criminal record and we may choose to issue a PCN without first issuing a warning. Failure to accept or pay a PCN may result in prosecution for the original offence or civil action to recover the debt.
Civil Penalty	The Housing and Planning Act 2016 introduces Civil Penalties as an alternative to prosecution for certain Housing Act 2004 offences from 6th April 2017. These include: <ul style="list-style-type: none"> • Section 30 failure to comply with an Improvement Notice • Section 72 offences in relation to licensing of HMOs • Section 95 offences in relation to licensing of houses under part 3 (Selective Licensing) • Section 139(7) failure to comply with an overcrowding notice. • Section 234 Management Regulations in respect of HMOs • In determining the Civil Penalty, the Local Housing Authority will have regard to the statutory guidance issued and the DCLG (now DLUHC) Civil Penalty Matrix
Rent Repayment Order	The Housing and Planning Act introduces new grounds for seeking Rent Repayment Orders in addition to those already detailed within the Housing Act 2004. These are: <ul style="list-style-type: none"> • Failure to comply with an Improvement Notice (section 30 Housing Act 2004)

	<ul style="list-style-type: none"> • Failure to comply with a Prohibition Order (section 32 Housing Act 2004) • Offences in relation to licensing of HMOs (section 72 Housing Act 2004) • Offences in relation to Selective Licensing (section 95 Housing Act 2004) • Breach of Banning Order (section 21 Housing and Planning Act 2016) • Section 6 Criminal Law Act 1977 • Section 1 Protection from Eviction Act 1977 In determining the Rent Repayment amount to be recovered the Local Housing Authority will have regard to the statutory guidance issued.
Simple Caution	<p>In appropriate circumstances, where a prosecution would otherwise be justified, a Simple Caution may be administered with the consent of the offender. In 2005, Home Office Circular 30/2005 replaced the term Formal Caution with the term Simple Caution, to distinguish it from a Conditional Caution. Although the description changed, the significance of the sanction remained the same.</p> <p>A Simple Caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.</p> <p>For a Simple Caution to be issued a number of criteria must be satisfied:</p> <ul style="list-style-type: none"> • Sufficient evidence must be available to prove the case. • The offender must admit the offence. • It must be in the public interest to use a Simple Caution. • The offender must be 18 years or over. <p>We will also take into account whether the offender has received a simple caution within the last 2 years when determining whether a simple caution is appropriate for any subsequent offending.</p>
Prosecution	<p>The prosecution of cases in the criminal courts. Depending on the circumstances we do not always warn or issue a statutory notice before taking a prosecution.</p> <p>Prosecutions are covered in further detail in Section 4.4 of this policy.</p>
Seizure	<p>Certain legislation enables authorised enforcement officers to remove or seize goods, vehicles, equipment or documents. When we remove or seize goods we will give the person from whom the goods are taken an appropriate</p>

	receipt and details of any applicable appeals and / or property return procedures.
Forfeiture	This procedure may be used in conjunction with seizure and/ or prosecution where there is a need to dispose of goods in order to prevent them re entering the marketplace or being used to cause a further problem. In appropriate circumstances, we will make an application for forfeiture to the Magistrates Court.
Proceeds of Crime Orders	Under Proceeds of Crime Act 2002, accredited Financial Investigators have power to take steps to identify and recover assets derived from criminal conduct.
Enforcement Order	A court order preventing businesses from engaging in activities which harm the collective interests of consumers.
Compulsory Purchase Order	In certain extreme cases once all other options have been exhausted the Authority may have to apply for a compulsory purchase order in order to bring a property back into use.
Civil Injunction	The local authority has the power to apply for a civil injunction to address antisocial behaviour and to apply positive requirements.
Hackney Carriage and Private Hire Drivers Refusal, Suspension, or Revocation of a Licence	<p>The Public Protection Sub Committee may determine whether to grant, suspend or revoke a licence based on whether the driver has:</p> <ul style="list-style-type: none"> (i) Been convicted of an offence involving dishonesty, indecency, drugs or violence; (ii) Been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976; (iii) Failed to comply with a requirement of the Local Government (Miscellaneous Provisions) Act 1976; or (iv) Any other reasonable cause. <p>(ii) A Hackney Carriage or Private Hire Drivers' licence may also be suspended or revoked with immediate effect if such a decision is deemed necessary in the interests of public safety. No conviction is required for this action to be taken. Matters will be considered on the Civil Standard of proof – on the balance of probability.</p> <p>(iii)</p>

Premises Licences- Licensing Act review/ modification/ exclusion of licensable activity/ removal of Designated Premises Supervisor	<p>Where a review of a Premises Licence is sought the options available to the Licensing Committee are: (a) Modification of the conditions of the Licence. (b) Exclusion of licensable activity from the scope of the Licence. (c) Removal of the Designated Premises Supervisor. (d) Suspension of the Licence for a period not exceeding three months. (e) Revocation of the Licence. (f) Issue of a Warning Letter.</p>
Premises Licences Gambling Act	<p>Where a review of a Premises Licence is sought under Section 202 of the Gambling Act, the options available are: (a) Revocation of the Licence. (b) Suspension of the Licence for a specified period not exceeding three months. (c) Exclusion of a condition attached to the Licence, under Section 168, or removal or amendment of an exclusion. (d) Additions, removal or amendment of a condition under Section 169</p>
Closure Order	<p>Issued in the Magistrates Court to a premises pursuant to S80 of the Antisocial behaviour, Crime and Policing Act 2014 where the Court is satisfied</p> <p>(a) That a person has engaged, or (if the order is not made) is likely to engage, in disorderly, offensive or criminal behaviour on the premises, or (b) That the use of the premises has resulted, or (if the order is not made) is likely to result, in serious nuisance to members of the public, or (c) That there has been, or (if the order is not made) is likely to be, disorder near those premises associated with the use of those premises, and that the order is necessary to prevent the behaviour, nuisance or disorder from continuing, recurring or occurring.</p>
Community Protection Notice	<p>Issued to individuals or businesses engaging in persistent, unreasonable behaviour that has a detrimental effect on the quality of life of those in the locality. A written warning must be issued first. Failure to comply can result in a Fixed Penalty Notice (FPN) or prosecution, leading to a fine.</p>
Criminal Behaviour Orders	<p>Issued by a court following a conviction for a criminal offence, imposing prohibitions and/or positive requirements to prevent further antisocial behaviour. The local authority can apply for a CBO in its own right in relation to council prosecutions or by making an application to the Crown Prosecution Service (CPS) to seek an order during criminal</p>

	proceedings. Breach of a CBO is a criminal offence and can result in imprisonment or a fine.
Public Space Protection Order	Aimed at preventing specific antisocial behaviours in a defined public area. Can prohibit or require certain actions, such as restrictions on alcohol consumption or dog control. Breach of a PSPO can result in a Fixed Penalty Notice or prosecution, leading to a fine.

4.3 In general, formal enforcement action or a prosecution will be justified where:

- a) the offender has been engaged in a course of conduct that is detrimental to interests of the public, employees, animals, or the environment; or
- b) the offender has been engaged in practices that present a risk to the health and safety of the public, employees, or animals; or
- c) the offender has been engaged in practices where public policy demands that a prosecution or formal enforcement action would be appropriate; or
- d) The offender has been engaged in the intimidation or obstruction of officers.

4.4 **Investigations**

The Council's Place Directorate uses discretion in deciding whether incidents, cases of ill health, or complaints should be investigated.

Investigations are undertaken to determine:

- causes
- whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law.
- lessons to be learnt and to influence the law and guidance.
- what response is appropriate to a breach of the law.

In selecting which complaints or reports of incidents, injury, or occupational ill health to investigate and in deciding the level of resources to be used the Council takes account of the following factors:

- the severity and scale of potential or actual harm.
- the seriousness of any potential breach of the law.
- knowledge of the duty holders past health and safety performance.
- the enforcement priorities.
- the practicality of achieving results.
- the wider relevance of the event, including serious public concern

4.5 **Prosecution**

The Attorney General's guidelines on criteria for prosecution endorses the principle that suspected criminal offences should not automatically be the subject of prosecution. The decision to prosecute an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. Even in a small case, a prosecution has serious implications for those involved - the victim, every witness, and the defendant. The purpose of this policy is to ensure the service makes fair and consistent decisions about prosecutions.

When deciding whether to prosecute Trafford Council has regard to the provisions of [The Code for Crown Prosecutors](#) and will only prosecute if:

- (a) Evidentially there is a realistic prospect of a conviction against an individual and
- (b) A prosecution would be in the public interest.

4.6 Working with other regulators

Where the service and another enforcement body both have the power to prosecute, the directorate will liaise with that other body to ensure effective co-ordination, to avoid inconsistencies and to ensure that any proceedings instituted are for the most appropriate offence.

- 4.7 Where there has been a breach of the law leading to a work-related death, the service will consider whether the circumstances of the case might justify a charge of manslaughter or corporate manslaughter in accordance with the "Work related deaths: a protocol for liaison."
- 4.8 Where an enforcement matter affects a wide geographical area beyond the local authority boundaries or involves enforcement by one or more other local authorities or organisations, where appropriate all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity coordinated with them.
- 4.9 Regulation and enforcement will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including: (a) Government Agencies. (b) Police Forces. (c) Fire Authorities. (d) Statutory Undertakers. (e) Other Local Authorities. (f) Other internal Council Departments

5. How decisions on enforcement action are made

- 5.1 The most appropriate enforcement action will be decided upon having regard to those matters set out in Section 4 above and also based on professional judgement, legal guidance, and statutory codes.
- 5.2 The Council will also have due regard to the 'Regulatory Justice: Making Sanctions Effective Report' (Macrory Review 2006) as follows:
 - aim to change the behaviour of the offender
 - aim to eliminate any financial gain or benefit from non-compliance
 - consider what is appropriate for the offender and regulatory issue

- be proportionate to the nature of the offence and the harm caused
 - aim to restore the harm caused by regulatory non-compliance, where appropriate
 - aim to deter future non-compliance
- 5.3 Where appropriate, and in accordance with internal operating procedures, decisions about what enforcement action to take may involve consultation between:
- investigating officer(s)
 - managers within Place Directorate
 - the Council's solicitors or Counsel
- 5.4 The decision to prosecute a case will be taken by those with authority to do so in accordance with the Council's Scheme of Delegation.
- 5.5 Businesses and individuals will be provided with a timely explanation in writing of any rights to representations or rights to appeal, and practical information on the process involved.

6 Appeals

- 6.1 In some circumstances a business or individual subject to Enforcement Action taken by Trafford Council may have a right to appeal the decision. Where such a right exists, the business or individual will be advised in writing of that right, including details of how to exercise that right.

7 Protection of Human Right

- 7.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. Due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

8 How to make a comment or complaint

- 8.1 The Council will always aim to provide a courteous and efficient service and our staff will identify themselves by name when they visit you, or speak to you on the telephone.
- 8.2 If you wish to contact the Council regarding the application of this policy please use the contact details below. We will aim to resolve any complaint as quickly as possible.

By visiting the Council's website: www.trafford.gov.uk

By emailing righttocomplain@trafford.gov.uk

By writing to Trafford Council, Town Hall, Talbot Road, Stretford, Manchester, M32 0TH

- 8.3 Trafford Council is committed to making information accessible to everyone. You can use the above contact details for support and advice if you need information translated or in another format such as large print, braille or audio.
- 8.4 This Policy will be reviewed every three years, the date of the next review will be 2028

Trafford Council
March 2025