

Bristol City Council Equality Impact Assessment Form

(Please refer to the Equality Impact Assessment guidance when completing this form)



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| Name of proposal | Bristol City Council Enforcement Policy |
| Directorate and Service Area | Growth and Regeneration |
| Name of Lead Officer | Jonathan Martin |

Step 1: What is the proposal?

Please explain your proposal in Plain English, avoiding acronyms and jargon. This section should explain how the proposal will impact service users, staff and/or the wider community.

1.1 What is the proposal?

The EQIA covers the Council's general Enforcement Policy and ancillary policies which reflect the role of Bristol City Council as host authority to specialist teams linked to the Trading Standards Service. These are:

- Regional Investigation Team South West
- Tenants Fees Act 2019- Penalty Notice policy in its capacity as Lead Enforcement Authority & Enforcement Authority.

Bristol City Council undertakes a range of enforcement activities across a number of departments and services covered by these policies.

These activities affect businesses, consumers and the general public in a number of ways, either in supporting them in compliance with a regulatory scheme or ensuring that appropriate action is taken where people or businesses are found not to be compliant.

The policies set out the expectations for those affected by regulatory activity and help them understand what they should expect from the Council's enforcement activities, as well as ensuring a fair, consistent and transparent process for everyone. In respect of the Tenants Fees Act policy, it sets out the factors that will be considered in deciding what financial penalties may be applied where offences are committed under the Tenant Fees Act 2019.

The council aims to apply the principles set down in the Legislative and Regulatory Reform Act 2006 to all of our regulatory activities, including, but

not limited to, those that are specified in regulations made under the Act. The principles are that:

- Regulatory activities should be carried out in a way, which is transparent, accountable, proportionate and consistent;
- Regulatory activities should be targeted only at cases in which action is needed.

The Better Regulation Delivery Office's (now known as Regulatory Delivery and part of Department for Business, Innovation and Skills) [Regulators' Code](#) sets out the expectation that local authorities will ensure their approach to their regulatory activities is transparent and local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them.

A range of action is set out in the policies, from no action through to prosecution or financial penalties. The policies clearly set out the criteria for these actions, along with the public interest test, which considers whether it is in the public interest to take action. The policies set out a number of areas in which they hope to promote the aims to be clear and transparent, as well as accessible to everyone who may be affected by it.

The enforcement policy also details the regulatory teams covered under it, which operate across a broad spectrum of areas. The policy may therefore be supplemented by additional policies in each area, with the Enforcement policy being document detailing the overarching approach to enforcement by the Council.

The changes proposed for the enforcement policy include a general refresh to the policy, changes in regulatory requirements, and reflects changes to the Code for Crown Prosecutors upon which much of the policy is based.

The Tenants Fees Act Policy is an entirely new document and required by statutory guidance.

In respect of the Regional Investigation Team, the policy makes clear that the 'reach' of team goes far beyond Bristol City Council's border, specialising in complex, consumer fraud investigations across the region and nationally.

Legal Considerations

The Council has a duty to protect the public and ensure compliance where it enforces and regulates. It must consider a number of pieces of legislation and guidance in doing this, including the Regulators Code, and Code for Crown Prosecutors. The Code for Crown Prosecutors sets out the Public Interest Test & Evidential Test, which regulators should consider when deciding what action to take. This is designed to set out a clear set of principles which are fair and consistent to all.

The Regulators Code requires regulators to ensure guidance is provided in a clear and consistent way, and assess their actions based on risk. This ensures that the approach of regulators is not targeted at any particular area, but based on the risk to the public as a whole.

The Tenant Fees Act 2019 is subject to statutory guidance issued by the Government's Ministry of Housing, Communities and Local Government (MHCLG). The guidance has been taken into account when drafting the Tenant Fees Act Policy.

Step 2: What information do we have?

Decisions must be evidence-based, and involve people with protected characteristics that could be affected. Please use this section to demonstrate understanding of who could be affected by the proposal.

2.1 What data or evidence is there which tells us who is, or could be affected?

Bristol Data

Bristol has an estimated population of 459,300, from a wide range of countries and backgrounds. In some areas English may not be the first language spoken, and statistics show that in areas where this is the case, the percentage of people who do not speak English at all, or do not speak it very well is around 7%. It is likely that these persons may require assistance in understanding the policy; however the remainder are likely to be able to understand the majority of process and engage with officers when they undertake inspections, or actions. The policy includes a commitment to providing information and guidance in plain English to ensure full understanding by those affected.

- 18% of the population are children, 69% are of working age, and 13% are

older people.

- The proportion of the population who are not 'White British' in Bristol increased from 12% (2001 census) to 22% (2011 census).
- 51% of people in Bristol are female and 49% male
- 22% of people say they have a disability which limits their day to day activity in some way.
- 58% of people hold a religious belief, and 33% have no religion.
- Around 6% of people in Bristol say they are lesbian, gay or bisexual.

Data from the Police in relation to certain offences suggests that there is a higher crime rate per 1000 ward population in the Central and Hotwells and Harbourside areas, compared to other areas of the city, but this is limited to crimes reported to the police, and certain types of crime, so does not give a full picture of all types of offences which may be dealt with by the local authority in performing its regulatory duties.

Much of the regulatory activity undertaken by Council regulators is directed at persons in the course of a business. As such there is a higher expectation that these persons do so in contemplation of the need for compliance. For example any sale of alcohol is covered by a permissive regime with specific requirements to obtain a licence with which will have inherent conditions requiring the responsible person to comply.

Different services undertaking enforcement work have very different customer demographics, for example officers are aware that the taxi trade has a high percentage of Black and Minority Ethnicity (BME) licence holders many of whom are sole traders. This is likely to differ across services dependent upon the area covered.

Regulatory activity is intended to be non-discriminatory and applies to all persons and businesses. There is no evidence to suggest that as part of these activities there is inadvertent discrimination.

2.2 Who is missing? Are there any gaps in the data?

There is currently limited equality information about those who the services have interacted with, either to ensure compliance or take action against, or those reporting issues, to the services.

It can however be assumed that activities are directed where they are most needed such as areas causing most detriment in whatever form like monetary

or social harm, or littering. Whilst there may be gaps officers believe this simply reflects that decisions on enforcement actions are based upon evidence of infringing conduct rather than any other factor.

As we need to guard against the possibility that action is disproportionately taken against people from equalities groups we intend to review the process of gathering this information, and develop better collection and recording of equalities information to ensure that the policy is effective in its aims to be fair and consistent.

2.3 How have we involved, or will we involve, communities and groups that could be affected?

The Regulators' Code sets out the expectation that local authorities will ensure their approach to their regulatory activities is transparent and local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them.

The policies are therefore required documents, and it is intended that consultation will be limited to the services which will implement them. Other authorities have also adopted this approach and not undertaken a formal consultation, as the majority of the policies relate to the statutory requirements set out in the regulators code, and other legislation.

The Legal Services Team has confirmed that this approach is appropriate, based on the legal need for the policies as set out in the Regulators Code.

The policies will progress through the formal council decision making pathway, and require final approval from Cabinet.

Step 3: Who might the proposal impact?

Analysis of impacts on people with protected characteristics must be rigorous. Please demonstrate your analysis of any impacts in this section, referring to all of the equalities groups as defined in the Equality Act 2010.

3.1 Does the proposal have any potentially adverse impacts on people with protected characteristics?

Whilst we have not identified any negative impacts from the proposal, a principle of Regulators Code is that Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply. We need to ensure that the revised policy is

appropriate and accessible for people with protected characteristics.

| Protected Characteristic | Potential impact | Mitigation / Justification |
|--------------------------------|---|---|
| Age | Enforcement information is likely to be predominantly communicated through digital channels. Although most age-groups have access to internet and email, some older people may not have the confidence or ability to access digital information. | Officers will provide hard copies of documents on request and give verbal advice in person or over the phone. |
| Disability | <p>We need to ensure that information is accessible for people with hearing and sight loss etc.</p> <p>There is a risk that disabled people including people with a learning disability may be at risk of coercion or exploitation leading to enforcement.</p> <p>When communicating on Enforcement issues there is the potential that some people may not understand what is expected of them or the consequences of not complying with what has been required, as a result of their disability.</p> | <p>Information will be available in accessible formats on request.</p> <p>The policy advises that the level of culpability should take into account whether a person has been compelled, coerced or exploited, particularly if they are the victim of a crime that is linked to their offending. It also says prosecutors should consider if suspects are/were affected by any significant mental or physical ill health or disability.</p> |
| Sex | No issues identified | |
| Sexual Orientation | No issues identified | |
| Pregnancy/Maternity | No issues identified | |
| Gender reassignment | No issues identified | |
| Race | There may be barriers regarding the communication of information to business/traders and citizens with limited English. | We will ensure that information and communications are written in plain English. |
| Religion or Belief | No issues identified | |
| Marriage and Civil Partnership | No issues identified | |

3.2 Can these impacts be mitigated or justified? If so, how?

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| See above |
| 3.3 Does the proposal create any benefits for people with protected characteristics? |
| The policies provide a clear framework for how the council will undertake its enforcement duties. Where these are undertaken effectively it should ensure that those who are especially vulnerable are more protected from loss of property or money by minimising the amount of offences perpetrated. In particular, young people and older people, and some people with a disability, may be more vulnerable. |
| 3.4 Can they be maximised? If so, how? |
| The policies ensure a fair and consistent approach to all, and encourage compliance in the first instance. This means that those persons who fail to comply through lack of knowledge can receive guidance to ensure compliance in the future, and those who fail to comply through deliberate action can be receive robust action, discouraging others from offending. |

Step 4: So what?

The Equality Impact Assessment must be able to influence the proposal and decision. This section asks how your understanding of impacts on people with protected characteristics has influenced your proposal, and how the findings of your Equality Impact Assessment can be measured going forward.

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| 4.1 How has the equality impact assessment informed or changed the proposal? |
| The policies are required documents, encompassing a broad range of considerations in relation to other legislation and guidance. It requires a fair and consistent approach to enforcement action and therefore no negative impacts are anticipated in relation to the protected characteristics. It is important to ensure that this is effectively implemented and that relevant data is appropriately gathered by the services involved in enforcement. |
| 4.2 What actions have been identified going forward? |
| Relevant data should be gathered by the services involved in enforcement to ensure that the policies are effective and do not disproportionately affect a particular group. |
| Cases where action is taken, and in particular prosecution is involved, should be monitored to establish whether any sector is over or under represented and ensure that remedial steps can be taken to try to resolve this, such as targeted |

campaigns to increase awareness of requirements.

4.3 How will the impact of your proposal and actions be measured moving forward?

The policies will be published after consultation circulated with the relevant services and published on the main BCC website. The policies will then be implemented across all the relevant services and all actions recorded on the relevant systems.

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| <p>Service Director Sign-Off:</p>  <p>Patsy Mellor Director of Management of Place</p> | <p>Equalities Officer Sign Off:</p>  <p>Duncan Fleming</p> |
| <p>Date: 02/07/2019</p> | <p>Date: 1/7/2019</p> |