



WATFORD BOROUGH COUNCIL

Community Protection

Compliance Policy 2021 – 2026

1. Introduction

- 1.1 This document provides detailed information on the approach, expectations and aims of officers working in the Community Protection service at Watford Borough Council when dealing with compliance issues.
- 1.2 Officers will work with members of the public and business to encourage compliance with legislation and regulations. The document details the reasoning behind this approach, the methods available to assist officers, the public and businesses, and the expected outcomes of this approach.
- 1.3 This document clearly explains what the public and businesses can expect from compliance teams and how they can engage in the compliance process.
- 1.4 Watford Borough Council is committed to continuously improving its approach to regulation in line with guidance issued by:

Office for Product Safety and Standards (part of the Department for Business, Energy and Industrial Strategy (BEIS)),
<https://www.gov.uk/government/organisations/office-for-product-safety-and-standards>

Hertfordshire Better Business for All partnership program (BBfA)
<http://www.hertfordshirelep.com/Better-Regulation.aspx>

and by following the Regulators Code,
<https://www.gov.uk/government/publications/regulators-code>

- 1.5 In particular, this policy sets out our approach on how we encourage and ensure compliance with a range of legislation and how we do this in the public interest. Compliance issues may arise when we deal with:
 - abandoned vehicles
 - alcohol, entertainment and late-night refreshment
 - animal welfare
 - anti-social behaviour
 - charity collections
 - dog fouling
 - drainage
 - environmental protection and pollution
 - filthy and verminous premises
 - food hygiene
 - gambling
 - health and safety at work
 - houses in multiple occupation
 - housing standards

- infectious diseases
- littering, fly-tipping and other environmental crimes
- pest control
- smoke-free legislation
- statutory nuisances such as noise, odours, vibration and light
- street trading
- taxis and private hire vehicles

This list is not comprehensive but gives an indication of the range of issues dealt with by the officers working in Community Protection.

- 1.6 By following this compliance policy the council aims to help the growth of Watford and to support the corporate themes contained in the Council Plan 2020-2024:

A council that serves our residents
 A thriving, diverse and creative town
 A healthy and happy town

Our Guiding Principles underpin how we deliver on our themes and commitments

Excellence	Work with partners to deliver excellent outcomes for our customers and communities.
Promotion	Promote Watford widely to maximise our town's potential.
Impact	Use our resources wisely to maximise financial, social and environmental impact.
Enterprise	Challenge ourselves to be ambitious and entrepreneurial.
Leadership	Bring people who care about the town together to get things done.
Caring	Respond thoughtfully to show our readiness to help others.

- 1.7 In developing this policy we have had regard to:

- the Human Rights Act 1998
- the statutory Regulators' Code issued under the Regulatory Enforcement and Sanctions act 2008
- the Code for Crown Prosecutors
- the Equality Act 2010

- 1.8 All decisions will be fair, independent and objective. The services covered by this compliance and enforcement policy will align with and meet the equality policies and objectives adopted by our council. We will aim to effectively support and promote access to our compliance and enforcement services recognising the diversity of the communities we serve and ensure that residents, organisations and businesses are treated equally and fairly through the delivery of our services. They will not be influenced by age, ethnicity, national origin, gender, religious or political belief, disabilities or sexual orientation. Due regard will be taken when dealing with children or other vulnerable people. Decisions will not be affected by improper or undue pressure from any source, including members.

- 1.9 We are committed to accountable and proportionate practices with clear policies supported by effective procedures. We will ensure officers are competent, apply compliance measures consistently and proportionately through training, suitable qualifications, and experience. Officers will consolidate their knowledge and experience through attendance on training courses, sharing best practice and keeping up to date with national guidance covering compliance.
- 1.10 We will have regard to evolving best practice in compliance and enforcement and will take account of any relevant specialist guidance, for example the Office for Product Safety and Standards publication on ethical business regulation which can be found here:

<https://www.gov.uk/government/publications/ethical-business-regulation>

2 Approval, review and exercise of powers

- 2.1 We consulted businesses and residents on this policy between 12 July and 23 August 2021.
- 2.2 Community Protection enforcement powers are delegated by the Council to the Group Head of Community and Environmental Services and the Head of Community Protection who in turn authorise officers on the basis of competency. The delegation is made in the Council's Constitution which sets out the how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Further information on the Constitution is available online:
- https://www.watford.gov.uk/downloads/file/53/part_1_summary_and_explanation
- 2.3 Team Managers are authorised to issue a Simple Caution and, in the case of certain housing offences, the application for a Rent Repayment Order and/or issuing of a financial penalty as an alternative to prosecution. In cases of doubt as to a particular course of action other than authorising a prosecution the Group Head of Community and Environmental Services shall make the final decision. The Group Head of Democracy and Governance, may authorise a prosecution.
- 2.4 We will review compliance policies and procedures on a regular basis and in the light of changes in legislation, case-law or best practice.

3 Policy objectives

- 3.1 Our approach is intended to:
- protect individuals, the community and the environment from harm
 - change the behaviour of individuals, organisations and businesses who breach legislation
 - eliminate any financial gain or benefit from non-compliance
 - protect those affected by non-compliance
 - be responsive and consider what is appropriate in the particular circumstances

- be proportionate having regard to the nature of the offence and the harm caused and the individuals circumstances
- deter future non-compliance

4 Key principles

4.1 Wherever possible our officers will adopt an approach of informal resolution. This will involve:

- clearly identifying the nature of any actual or potential legislative breach;
- giving the party responsible for the breach the opportunity to remedy it.

We recognise that this approach is not always possible. There may be some circumstances where the impact of an offence is so serious that a single breach requires urgent formal action. This can be where an investigation takes a significant amount of resource due to the nature of the evidence, and the difficulty in gathering the evidence, required to prove the offence. For example, these types of issues can include (but are not limited to) actions leading to discrimination, a negative impact on the environment, and other offences which cause harm to residents such as dog-fouling, fly-tipping and littering. In these types of cases it may be necessary, reasonable and proportionate to take stronger action following a single incident in order to prevent further offences.

4.2 Although each case shall be considered on its own facts and on its own merits, there are general principles set out in this policy that apply to the way in which we approach every case.

4.3 **Standards**

4.3.1 We will always make clear when there is a legal requirement to be followed, and under which legislation it is required. We will always make clear the difference between legal requirements and recommended best practice.

4.3.2 In doing this we will have regard to the relevant legislation, codes of practice and guidance when determining the approach to take.

4.3.3 We will document in writing what we have had regard to throughout the course of any investigation or compliance procedure.

4.3.4 All investigations will follow best professional practice and legal requirements. Where necessary as part of the investigation process (for example, where formal legal action is possible), the party responsible for the breach may be formally interviewed under the Police and Criminal Evidence Act 1984, be given the opportunity to establish a statutory defence, and have the opportunity to give an explanation or make any additional comments about the allegations. Evidence will be gathered and used in accordance with the Criminal Procedure and Investigations Act 1996 and not kept for longer than required under the Act's code of practice.

4.4 **Openness**

- 4.4.1 We recognise the need to maintain public confidence in our ability to protect and to regulate. This is achieved by promoting consistency, proportionality and accountability. We will also aim to work in order of priority and direct our work accordingly, using national risk assessment schemes, local intelligence and the priorities of the council and its partners. We will clearly explain to those affected by breaches of legislation the action we take or why we are unable to take action. We will also make clear the difference between statutory requirements or advice, or guidance about what is desirable or good practice but not compulsory.
- 4.4.2 Where action is necessary to comply with legislative requirements, it will be clearly explained, as far as reasonably practicable in writing and verbally, why the action is necessary and when it must be carried out by. We will discuss what is needed before taking formal action, apart from when urgent action is required to protect public health, public safety or the environment, or evidence to support enforcement action would be otherwise lost.
- 4.4.3 In line with the Publicising Sentencing Outcomes government guidance we will publicise the results of prosecutions and simple cautions, although we will not publicise an individual's personal details when a simple caution has been accepted. If we receive information that may lead to formal legal action we will notify the source of that complaint as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk.
- 4.4.4 All parties concerned will be kept informed of progress during our investigations and any enforcement action. Confidentiality will be maintained and personal information only released in accordance with legal requirements or in accordance with the Data Protection Act 2018 and GDPR.

4.5 ***Helpfulness***

- 4.5.1 We believe that prevention is better than cure. We will offer information and advice to those whom we regulate and seek to secure compliance without bureaucracy and excessive cost. We will encourage individuals, organisations and businesses to put community, public health, public safety and the environment first. We will ensure that, wherever practicable, our compliance services are effectively co-ordinated to minimise unnecessary overlaps and time delays.
- 4.5.2 When a breach has been identified that does not present an immediate risk to health, safety or the environment, we may arrange follow-up visits to allow the business owner or individual time to comply with their legal obligations. Where immediate action is not needed, we will consider agreeing an action plan to assist the business or individual to work towards compliance, and a time scale for the successful implementation and completion of this action plan.

4.6 ***Complaints***

4.6.1 Written explanation of any rights of appeal against formal legal action will be given at the time action is taken. We cannot advise on the merits or details of any appeal. Please see section 9 below about how to complain about the service we provide.

4.7 ***Proportionality***

4.7.1 We will balance action taken against risks and costs. Actions to achieve compliance will be proportionate to any risks to public health and safety, and the seriousness of any breach. Therefore, an informal warning is unlikely to be a suitable disposal for a significant infringement leading to serious injury just as a prosecution is generally unsuitable for a minor administrative or technical oversight. Proportionate action also involves judging the extent of the efforts made by individuals, organisations or businesses in order to comply with the law.

4.8 ***Consistency***

4.8.1 Our officers will endeavour to take a similar approach in similar circumstances to achieve similar ends; consistency does not mean taking exactly the same approach concerning each breach. We will endeavour to be consistent in the advice we give, whether over time to the same business, or to different businesses.

4.8.2 We will participate in county-wide and regional compliance arrangements to encourage consistency amongst other regulators and to share best practice. Where an investigation reveals information that could lead to further investigation by other agencies, we will cooperate and coordinate with the relevant agency to maximise the effectiveness of our advice, assistance or formal legal action.

4.8.3 We participate in the Primary Authority scheme as part of the Regulatory Enforcement and Sanctions Act 2008, and follow any inspection plans issued by Primary Authorities as part of those arrangements. We will give notice of proposed legal action to relevant Primary Authorities before action is taken against organisations registered under the scheme, apart from specific urgent cases where this is not required.

5 Compliance techniques

5.1 We use a range of techniques to encourage and secure compliance with legal obligations, including:

- informal advisory visits and meetings
- mediation
- education, awareness-raising and advice
- formal training
- risk-based inspections
- proactive and reactive visits
- direct observation
- test baiting of vermin
- test purchasing
- sampling

- auditing
- 5.2 We are committed to working proactively and positively to encourage risks to be managed and compliance achieved and we will consult service users on the best approach to doing this.

6 Bringing legal action

6.1 We will take account of different factors when considering the appropriate approach to achieve compliance, including:

- any actual or potential harm or loss to an individual
- the risk that non-compliance poses to public health, public safety or the environment
- the conduct of individuals, organisations or businesses to compliance, such as failing to follow previous advice or comply with statutory notices
- evidence of pre-meditation
- obstruction of officers
- national and local priorities for enforcement, including where the offence is widespread throughout the Borough but is not itself serious
- statutory guidance and codes of practise
- legal advice
- any commercial benefit accrued because of the non-compliance.

6.1.1 The following actions are available to us in the event of any contravention:

6.2 ***No further action, taking informal action or giving advice***

6.2.1 This may apply where an investigation reveals no offence has occurred or where the offending party makes a ready admission of the breach and takes immediate steps to remedy it presenting no risks to public safety, public health or the environment. No further action will be appropriate where the evidence is inadequate or where formal enforcement is inappropriate because the contravener is elderly, frail, has poor mental or serious ill health, and to pursue the case would be detrimental to their wellbeing. All persons involved will be advised as to why no further action is being taken

6.2.2 We may give verbal or written advice where we have a high degree of confidence the breach will be properly remedied or not repeated. We will clearly identify any contraventions of the law and give advice on how to correct them, including a reasonable deadline (agreed where possible) for when this should be completed. This will take into account the seriousness of the contravention and the implications for non-compliance.

6.3 ***Issuing warnings***

6.3.1 We may give verbal or written warnings. The fact that a verbal warning has been given may be recorded in a case file for future reference. Written warnings are normally final,

and failure to comply or repeated breaches of the same or a similar contravention are likely to result in an escalation in the approach to achieving compliance.

6.4 *Offering a Simple Caution*

6.4.1 Cautions will be considered in line the Home Office guidance in circular 16/2008. Simple Cautions are issued with the consent of the person responsible for a breach and where a prosecution would otherwise be justified. Although an admission of guilt, a caution is not a sentence or a criminal conviction.

6.4.2 Before offering a simple caution, we must be satisfied that:

- there is sufficient evidence to prove the case before a court
- there has been a free and voluntary admission of guilt
- it must be in the public interest to use a simple caution to dispose of the offence
- the individual or business owner is over the age of 18

6.4.3 We will also take into account whether the person responsible for a breach has received a simple caution within the previous two years in accordance with Section 17(4) of the Criminal Justice and Courts Act 2015

6.4.4 The refusal of a person responsible for a breach to be cautioned, despite admitting their guilt, will normally result in a prosecution, although a prosecution cannot be brought once a simple caution has been accepted for that offence. A failure to accept a caution may be material consideration when deciding whether to institute a prosecution.

6.5 *Bringing a prosecution*

6.5.1 Where circumstances warrant it, we will prosecute without giving any opportunity for the remedy of the situation and without any prior warning. Prosecutions will be considered where:

- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with legal duties
- there is a risk to community health and safety or of environmental damage as a consequence of the breach
- the breach was as a result of a deliberate, reckless or negligent act
- the approach of the individual or business through repeated breaches, persistent poor standards or ignoring formal advice and warnings warrants it

6.5.2 Prosecutions will always be considered where:

- there has been a blatant disregard for the law
- there is a refusal to achieve minimum legal requirements
- the offence involves a risk to public health, safety or wellbeing, harm to the environment or where an unacceptable business advantage is gained
- the individual or business has failed to correct potential risks after being given a reasonable opportunity to do so.

- the offence involves failure to comply with a statutory notice
- evidence suggests the offence was premeditated
- there is a history of similar offences
- an officer was intentionally obstructed or deceived in the course of their duties
- consideration of factors set out in paragraph 6.1 result in prosecution being the correct and proportionate response.

6.5.3 The decision to prosecute will take account of the evidential and public interest tests in the Code for Crown Prosecutors issued under the Prosecution of Offences Act 1985 by the Director of Public Prosecutions. These include:

- the seriousness of the offence. A prosecution is more likely to be required where an offence is more serious;
- the level of culpability by the person responsible for a breach, such as their level of involvement; whether the offence was premeditated or planned; or if they have previous convictions or cautions;
- the age and state of mental or physical health of the person responsible for a breach
- the likelihood of the offence being continued, repeated or escalated;
- any remedial action taken by the person responsible for a breach, (although an offer to pay compensation to a victim or take similar action will never by itself preclude a prosecution);
- whether a prosecution is a proportionate response to the likely outcome.

6.5.4 We will not prosecute unless we are satisfied there is credible, admissible and reliable evidence that the offence has been committed by the individual or business and there is a realistic prospect of conviction. We will continuously review our enforcement approach when new evidence is received and periodically during the course of formal enforcement action.

6.5.5 The courts often have discretion in the penalties they can impose, and many offences benefit from a statutory defence. We will not be generally deterred from bringing a prosecution when it is right to do so solely because the courts are likely to issue a nominal penalty following a conviction, or solely because the individual or business appears to have established a statutory defence as it is for the individual or business to demonstrate to the court why they should benefit from that defence.

6.5.6 We will always seek to recover our costs in investigating and prosecuting offences.

6.5.7 People should be able to rely on decisions taken by us. Normally, if we tell a defendant that there will not be a prosecution, or that the prosecution has been stopped, the case will not start again. Occasionally there are reasons why we will overturn a decision not to prosecute or to deal with the case by way of an out-of-court disposal or when it will restart the prosecution, particularly if the case is serious.

6.5.8 These reasons include:

- cases where a new look at the original decision shows that it was wrong and, in order to maintain confidence in the criminal justice system, a prosecution should be brought despite the earlier decision;
- cases which are stopped so that more evidence (which is likely to become available in the fairly near future) can be collected and prepared. In these cases, we will tell the defendant that the prosecution may well start again;
- cases which are stopped because of a lack of evidence but where more significant evidence is discovered later.

6.6 Alternatives to Prosecution

- 6.6.1 Fixed penalty notices (FPN) are available as an alternative to prosecution for some offences. A recipient of an FPN does not accept criminal liability by paying the associated fine, which brings an end to the matter. Where the law allows FPNs to be issued, we may choose to administer those on a first occasion without issuing a warning. However, a failure to pay an FPN will result in an escalation of enforcement action including prosecution for the original offence to preserve the integrity of the regulatory regime.
- 6.6.2 For certain housing offences as set out in law, such as failure to comply with an improvement or overcrowding notice or operating an unlicensed House in Multiple Occupation (HMO), a financial penalty may be imposed as an alternative to prosecution. In such cases, a notice of intention to impose a financial penalty will be given setting out the amount of the proposed penalty, reasons for imposing it and information about the right to make written representation before a decision is made to issue a final penalty notice. Where a final penalty notice is issued, there will be a right of appeal to a First Tier Tribunal.

6.7 Community Protection Warnings and Community Protection Notices

- 6.7.1 The council has the power to issue a Community Protection Notice (CPN) requiring an individual (aged 16 or over) or a business engaged in anti-social behaviour activities to stop what they are doing if that activity has a negative impact on any individual or the environment or the community. If necessary, the individual or business must repair any damage they may have caused and undertake steps to prevent such further negative impact.
- 6.7.2 Community Protection Notices will be issued where there is evidence of ongoing issues in accordance with section 43, Anti-Social Behaviour Act 2014, contained in Part 4 of the Act.
- 6.7.3 In cases where a Community Protection Notice is considered an appropriate measure, in the first instance a Community Protection Warning (CPW) will be issued. Breach of a CPW

does not carry any financial penalty but may result in further compliance action being taken.

6.7.4 A CPW is issued for 6 months. Should anti-social behaviour persist within this time, a CPN will be issued. Breach of a CPN carries a penalty on conviction of up to £2500 for individuals or an unlimited fine for organisations and businesses.

6.7.5 A Fixed Penalty Notice (see 6.6) can be issued for a breach of a Community Protection Notice. The current FPN fee is for £200.

6.8 Other Remedies

6.8.1 We will also use other powers where appropriate in order to protect the community. This will include working with our partners, for example, the police, applying for orders under the Anti-Social Behaviour Crime and Policing Act 2014 and using other legislation where necessary and proportionate.

6.9 Issuing statutory notices

6.9.1 We may serve notices under various legislation requiring specific actions to be taken or certain activities to cease. Notices may require activities to cease immediately where there is an imminent or immediate threat to health, safety, environmental damage or nuisance. In other circumstances notices will be issued with a reasonable time for compliance, agreed wherever possible with the recipient of the notice, taking into account the seriousness of the contravention, setting out the remedial actions needed to comply with the notice, the implications of non-compliance and the appeal period for that notice. Some legislation prescribes the action to be taken which might include the service of a notice. However we will generally issue notices if previous warnings or advice have been ignored.

6.9.2 All notices will be expressed in plain language, make clear the consequences of failing to comply, and include details of any applicable appeals procedure. All notices will be signed and served by appropriately authorised officers.

6.9.3 Failure to comply with certain notices will enable the council to do the work instead, commonly referred to as “works in default “. We may issue these notices when all other attempts to secure compliance have been exhausted, and will give warning of our intention to issue a notice except where this is impractical in order to protect public health and safety or the environment. We will then charge the recipient of the notice for any costs incurred in carrying out the work, and this may lead to a charge being registered against the land usually as a local land charge. This will allow the council to recoup the costs from any future sale of the property or exercise a right of sale as if it were a mortgagee. Costs will include all costs as well as the cost of the work, for example, officer time spent dealing with the matter. The council may still prosecute for not complying with the original statutory notice as well as carrying out the works.

6.10 Licensing decisions

- 6.10.1 Many of the licences and permissions we issue contain powers to revoke, refuse, vary or review them in the event of non-compliance with obligations in those authorisations, or following a conviction for certain offences.
- 6.10.2 Premises licensed under the Licensing Act 2003 can be reviewed by any resident or group of residents, elected members, the licensing authority and other Responsible Authorities, for example, the police, the fire brigade or the planning authority. A licence review can be initiated at any time and can lead to a consideration of the licence or part of the licence or the conditions attached to a licence if the actions of the premises are detrimental and undermining the licensing objectives.
- 6.10.3 The maximum term for a HMO licence is 5 years, however shorter term licenses can be issued if there are concerns about the management of the property that can be resolved within a shorter licensing period. For example where the property is breaching planning legislation or there are concerns about the financial status of the landlord. We will issue shorter term licenses where it is appropriate to do so.
- 6.10.4 As a general rule and in line with this compliance policy we will take decisions regarding the revoking of, or refusal of licences when all other approaches to assist compliance, short of cautions or prosecutions, have been exhausted. This may include suspending licences in the event of a breach, or refusing a licence when activities have been carried on without the requisite licence being in place. Whether we take such a decision before, after or as an alternative to a prosecution or caution will depend on the legal powers available to us and the risks presented by the situation. How we exercise our professional discretion in such cases and will generally be guided by:
- whether the actions of the individual or business are so serious they ought to face trial in court
 - the impact that a licensing decision will have in correcting any breach
 - the impact that a licensing decision may have on the individual or business and the impact on their ability to continue operating their licensable activity (this is not relevant to matters related to hackney carriage or private hire licences).
 - the council's Hackney Carriage and Private Hire Licensing Policy
- 6.10.5 Decisions regarding varying, revoking or refusing a licence and instigating prosecutions serve different purposes – licensing decisions about hackney carriage drivers, for example, concern their fitness and propriety to hold a licence, whilst a prosecution serves the objectives outlined in section 6.5 above. Similarly, reviews under the Licensing Act 2003 and Gambling Act 2005 are designed to be more corrective than punitive in nature, which should be a matter reserved for the courts.
- 6.10.6 In relation to licensed hackney carriage and private hire drivers, proprietors and operators, alongside the compliance principles contained in this policy, we will use the following approach when investigating offences:
- If it is safe to do so we will notify licence holders of complaints received against them whether proven or not so that they can be discussed. This approach will ensure

transparency with licence holders in how the licensing team approach the matter of complaints. As with all regulated businesses, licence holders can be subject to malicious and false complaints and it is right that they are aware of how these matters are concluded;

- Our investigation into intelligence reports and/or complaints will look for evidence to either prove or disprove alleged offences – this will usually include a discussion with the licence holder. On occasion, for the protection of the identity of a complainant in cases involving sensitive matters such as allegations of a sexual nature, it may not be right to discuss the details of the complaint with the licence holder directly in the first instance;
- We will not take account of a licence holder’s previous licensing history during the investigation of a specific complaint. Each complaint must be investigated on the basis of the evidence available;
- If there is no evidence, or insufficient evidence, to prove the specific complaint beyond reasonable doubt, a decision on further action may still be taken where the nature and severity of the alleged offence warrants it. Supporting evidence by way of previous reports will be considered if they exist and indicate the same or similar behaviour;
- If an offence is proven to the necessary standard of proof for the proposed action (civil or criminal burden of proof), the offence shall be considered and action taken in accordance with the principles in this compliance policy and/or the policy considerations contained within the Hackney Carriage and Private Hire Licensing Policy;
- All proven complaints will be considered in future enforcement or licensing decisions.

6.10.7 For all proven offences licence holders will at least be informed of the offence and we will explain how to prevent further offences. Generally, where an offence has resulted in a complaint, licence holders can expect to receive at least a formal written warning.

6.10.8 Licence holders who receive repeated written warnings or show a history of similar offences, or those who have been subject to complaints which give the authority reason to further investigate the fitness and propriety of the licence holder, will be invited to attend a Case Review. This is a meeting with the Head of Community Protection to discuss a licence holder’s conduct, to encourage behaviour change, to understand barriers to this and to clearly explain the consequences of any continued non-compliance. A Case Review may result in the following actions although this is not an exhaustive list of options available:

- no further action
- further investigation
- written advice
- formal warning
- simple caution
- referral for prosecution
- suspension of licence
- recommendation to the Group Head of Service for revocation of licence

Any licence holder invited to attend a Case Review will be entitled to bring a friend, colleague, union representative or other legal representative.

6.10.9 Where deemed appropriate we may suspend or revoke a licence. Where a suspension of the licence is deemed a proportionate response to the offence, the length of time of suspension will be determined by the overriding requirement to protect the public. The licence holder's previous history will be taken into account when making this decision along with other factors such as the conduct of the licence holder, the impact of the offence, etc.

Where relevant, a decision will also be guided by the council's Hackney Carriage and Private Hire Licensing Policy.

6.10.10 Except in cases where it appears that in the interests of public safety it is necessary to require it, no suspension or revocation of a licence will take immediate effect. In these circumstances the decision will not take effect until the appeal period of 21 days has expired. During this time, the licence holder has the right to appeal against the suspension or revocation notice by applying to the Magistrates' Court.

6.10.11 The power to suspend or revoke a licence is delegated to the Group Head of Community and Environmental Services, the Head of Community Protection and officers within the licensing team.

6.10.12 Any driver, proprietor or operator who re-offends after suspension or a successful prosecution, or commits a first offence which gives sufficient cause for concern, will be referred to the Group Head of Community and Environmental Services or the Head of Community Protection. This referral may take place without the licence holder first attending a Case Review. This referral will allow for immediate consideration of the continued fitness and propriety of the licence holder.

6.10.13 In the most serious cases it may be necessary to revoke or suspend a licence immediately and without initial correspondence with the licence holder.

6.10.14 In cases where there is no immediate risk and no need to revoke or suspend a licence immediately in the interests of public safety, a licence holder who is referred in this way will be given an opportunity to make written representations against any recommendation to revoke or suspend before a final decision is made.

6.10.15 In cases where it is appropriate, for example where an investigation or prosecution has been undertaken by another authority and guilt established, an officer may refer a licence holder directly to the Group Head of Community and Environmental Services or the Head of Community Protection.

6.10.16 Appeals against revocation or the refusal to renew a licence can be made to the appropriate Court within 21 days of being notified of our decision.

6.11 Repayment of Monies

6.11.1 We believe that people should not profit from their criminal behaviour. When people have been convicted of offences and it can be shown that they have made money from

their criminal lifestyle, we may seek Confiscation Orders under the Proceeds of Crime Act 2002.

6.11.2 Where a landlord has committed certain housing offences (whether or not they have been convicted), a First Tier Tribunal has the power to make a Rent Repayment Order (RRO) to require a landlord to repay back to the Council an amount of universal credit, including housing benefit, in respect of rent under the tenancy. Where the law allows, such as failure to comply with an improvement notice or prohibition order or operating an unlicensed HMO, we will first issue a notice of intention to apply for a RRO to the landlord, setting out the amount we are seeking to recover and giving a right to make written representation before a decision is made to apply for an RRO. Once we have considered any representations, will then either make an application for a RRO to the First Tier Tribunal or not.

7 Other policies or legislation

7.1 In considering decisions in relation to food safety legislation and health and safety at work we must have regard to the Food Standards Agency's Food Law Code of Practice and the Health & Safety Executive's Enforcement Management Model.

7.2 Our statutory policy under the Licensing Act 2003 sets out our considerations to compliance and enforcement under that Act.

7.3 Our statutory policy under the Gambling Act 2005 sets out our considerations to compliance and enforcement under that Act.

7.4 Our Hackney Carriage and Private Hire Licensing Policy sets out our considerations to compliance and enforcement of holders of driver, vehicle and operator licences.

7.5 We have published minimum standards for tackling anti-social behaviour in conjunction with our partners.

7.6 This policy should be read in conjunction with those documents, and will take precedence in the event of any conflict.

8 Other enforcement partners

8.1 Some investigations will reveal offences that are solely or jointly enforced by other agencies. These can include other local authorities, the police, fire service, trading standards, Gambling Commission, HM Revenues & Customs, Immigration and Customs Enforcement, Health & Safety Executive or the Environment Agency.

8.2 Where two offences arise out of the same set of facts but are enforced by two agencies, we will agree on a case-by-case basis the most appropriate action as each agency may decide a different approach and/or disposal is justified.

8.3 We will share information with other enforcement agencies where legislation permits, in accordance with agreed protocols and in accordance with the Data Protection Act 2018 and GDPR.

9 Customer standards and Complaints (including ombudsman)

For details of our customer standards about how you can expect us to treat you, please visit https://www.watford.gov.uk/info/20274/customer_services/1172/contact/4 or ask one of our officers for a copy.

Comments on this policy to:

EH Manager (Business)
Environmental Health
Watford Borough Council
Town Hall
Watford
Herts
WD17 3EX
Envhealth@watford.gov.uk