



GEDLING BOROUGH COUNCIL

INTERNAL AUDIT REPORT

ENVIRONMENTAL HEALTH SERVICES & ENFORCEMENT - SELECTIVE LICENSING
MAY 2022

LEVEL OF ASSURANCE	
Design	Operational Effectiveness
Moderate	Moderate

IDEAS | PEOPLE | TRUST



EXECUTIVE SUMMARY	2
DETAILED FINDINGS	4
OBSERVATIONS	9
APPENDIX I - DEFINITIONS.....	10
APPENDIX II - TERMS OF REFERENCE	11

DISTRIBUTION

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REPORT STATUS LIST

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EXECUTIVE SUMMARY**LEVEL OF ASSURANCE: (SEE APPENDIX II FOR DEFINITIONS)**

Design	Moderate	Generally a sound system of internal control designed to achieve system objectives with some exceptions.
Effectiveness	Moderate	Evidence of non compliance with some controls, that may put some of the system objectives at risk.

SUMMARY OF RECOMMENDATIONS: (SEE APPENDIX II FOR DEFINITIONS)

High	0
Medium	2
Low	1

TOTAL NUMBER OF RECOMMENDATIONS: 3**CRR REFERENCE:**

Risk 10: Failure to maintain service standards, customer satisfaction, and/or meet customer expectations.

BACKGROUND:

Environmental health covers all aspects of the natural and built environment that may impact on human health and wellbeing. Environmental health services are typically responsible for carrying out measures for the protection of public health including administering and enforcing legislation related to Environmental Health and provides support in minimising and addressing health and safety hazards.

At Gedling Borough Council ('the Council') environmental health covers:

- Pest control
- Dead animal removal from roads and public places
- Food safety/poisoning
- Air pollution monitoring and reporting
- Stray dogs
- Contaminated land
- Infectious disease
- Smoke control.

The Environment and Licensing Committee is responsible for all non-executive functions of the Council regarding Environmental Health.

The Council has a Public Protection Enforcement Policy statement which sets out what businesses, residents and the community can expect from the Council's enforcement approach and procedures. The primary function of the enforcement work is to protect the public and the environment. At the same time equitable and consistent enforcement maintains a level playing field for local businesses as well as the Council's service users. Enforcement options include:

- Written and verbal advice
- Reference to another enforcement agency
- Written warning
- Statutory notice
- Fixed penalty notice
- Prohibition
- Works in default
- Simple caution
- Suspension or revocation of licence
- Prosecution.

The 'Public Protection - Environment' Service Area consists of several Service Teams including but not limited to Food, Health and Housing and Community Protection. This audit focussed on the environmental health services of Selective Licensing which sits within the Food, Health and Housing Service Team and Warden Enforcement for dog fouling, antisocial behaviour and fly-tipping which sits within the Community Protection Service Team. We have split the review into separate audit reports,

one for each area, to reflect the difference in operations and nature of the findings between the service areas. **From hereon we will only reference to the review carried out on the Selective Licensing Service team. Please see the corresponding audit report for the findings in relation to Warden Enforcement for dog fouling, antisocial behaviour, and fly-tipping.**

Part 3 of the Housing Act 2004 gives local authorities the power to introduce selective licensing for privately rented properties within a designated area. Gedling Borough Council implemented a Selective Licensing Scheme within the Netherfield Ward on the 1 October 2018 with the aim to improve housing standards in the private rented sector.

The environmental officers within the Selective Licensing team are responsible for processing applications, issuing licences, dealing with service requests, and carrying out enforcement activity. The Gedling Private Sector Housing Enforcement Policy and Private Sector Housing Civil Penalties Policy provide more detail than the Public Protection Enforcement Policy in this specific area and are used to guide officers in undertaking enforcement activity.

TESTING APPROACH

Service Requests: Between 1 January 2021 and 31 December 2021, seven Selective Licensing and 27 Housing Conditions service requests were recorded on the Council's system, Uniform. We selected a sample of two service requests for Selective Licensing and three for Housing Conditions and reviewed these to ascertain whether they were appropriately prioritised, investigated, and managed.

Enforcement Activity: Between 1 April and 31 December 2021, three Community Protection Notices (CPNs) were issued by the Selective Licensing team. We reviewed all three notices to ascertain whether these were issued in line with the Council's Private Sector Housing Civil Penalties Policy.

GOOD PRACTICE:

- **Enforcement Policy** - The Council has a robust Private Sector Housing Enforcement Policy that clearly sets out all relevant information regarding enforcement procedures for Selective Licensing. It covers choice of appropriate enforcement action, factors that should be considered and non-compliance with notices/orders. It also clearly details who is responsible for implementing the policy and who has authority to investigate or enforce
- **Training** - Training on Investigation and Case Building was provided to all public protection officers in December 2020 covering key areas of legislation, powers to investigate and collection of evidence
- **Enforcement Activity** - We tested a sample of three Civil Penalty Notices issued by the Selective Licensing team between April and December 2021 and found all were granted in line with the Gedling Private Sector Housing Enforcement Policy.

KEY FINDINGS:

- We tested a sample of service requests and found these were not adequately prioritised and recorded on Uniform. Furthermore, there are currently limited controls in place for monitoring or reporting Selective Licensing service request performance (**Finding 1 - Medium**)
- Officer Health & Safety Training is not regularly updated in line with refresher dates and enforcement training records are not adequately maintained for the service team (**Finding 2 - Medium**).

CONCLUSION:

Our review has identified some gaps in procedures and controls in key areas of enforcement. As a result, we have made recommendations that should be implemented to improve the quality of the Council's overall internal control framework and operational effectiveness of the controls. We have identified two medium findings. These relate to response times and administration of service requests (lack of prioritisation and recording of updates) and some delays in closing cases. In addition, some critical measures we would expect to be in place to achieve the Council's objectives are not fully in operation including an up-to-date policy, performance monitoring, regular refresher training and spot checking. The effectiveness of the system is adequate however and does not pose immediate safeguarding risks. This has led us to our opinion of moderate assurance over control design and operational effectiveness.

DETAILED FINDINGS

RISK: REPORTED INCIDENTS OR COMPLAINTS RELATING TO SELECTIVE LICENSING AND WARDEN ENFORCEMENT ACTIVITIES ARE NOT APPROPRIATELY PRIORITISED, INVESTIGATED OR MANAGED

Ref	Significance	Finding
1	Medium	<p>The 2014 Regulator's Code states that regulators should base their regulatory activities on risk and risk should be considered in every stage of the decision-making process. The Council should ensure that enforcement activity for Selective Licensing is planned and carried out following a risk-based approach.</p> <p>The Council provides a proactive service of administering licence applications and a reactive service responding to requests for service around disrepair. The Council have a two-day response target and a six-month resolution target for general service requests although this was increased to 12 months for Selective Licensing failure to licence investigations.</p> <p>The Council's Private Sector Housing Civil Penalties Policy states that complaints (service requests) will be prioritised based on an assessment of risk and seriousness but provides no process or guidance on how this should be undertaken.</p> <p>Between 1 January 2021 and 31 December 2021, seven Selective Licensing and 27 Housing Conditions service requests were recorded on the Council's system, Uniform. We reviewed all of these to ascertain whether they had been appropriately prioritised and investigated and found:</p> <ul style="list-style-type: none"> • No formal evidence that service requests were prioritised based on an assessment of risk and seriousness. However, we were made aware that the Environmental Health Officers who provide the reactive service are public health trained and will dynamically assess complaints based on the public health risk and ensure imminent high-risk issues are prioritised, although this process is not documented • Three out of 34 (9%) service requests were not responded to in two days in line with the Council's response target, with the average response time for these requests being seven working days. It was unclear whether a further 13 out of 34 (38%) were responded to in two days as the dates were not filled out on Uniform • As at 26 January 2022, 4 out of 27 (15%) Netherfield Housing Conditions Service Requests remained open, exceeding the 12 month resolution period. We have been advised that the 12 month resolution period is not a strict deadline, and there have been challenges in the current climate to ensure minor disrepair is resolved due to supply chain pressures and accessing homes (during Covid-19 restrictions). Although the remaining Service Requests were within the 12 month resolution period, a total of 14 service requests remain open across our sample. The oldest open service request for Housing Conditions is dated 4 January 2021 and the oldest for Selective Licensing is dated 28 January 2021. <p>We reviewed a sample of five of the oldest service requests from the 14 in total that remained open on Uniform (two Selective Licensing & three Netherfield Housing Conditions) to assess whether they had been appropriately managed and found as at January 2022:</p> <ul style="list-style-type: none"> • For two of five, the last action documented on Uniform was in April and July 2021 respectively despite the service requests being raised in January and March 2021 respectively, and the requests have not been followed up since then. Both cases involved tenants experiencing poor living conditions. For the first case, the Council received a service request in January 2021, stating the tenant had received a letter from Housing Needs instructing them to make an

appointment with an Environmental Health Officer due to poor living conditions. The Council contacted the customer, were advised that the agent was visiting the property, and subsequently asked to be kept updated. An officer followed this up and were informed in March 2021 that a handyman and plumber had completed works. In April 2021, the Council was informed by the agent that damp works were to be completed in June. There are no records on file following this update to demonstrate that the officer ensured the damp works had been carried out. For the second case, in March 2021 the tenant made the Council aware that they had an ongoing leak the landlord was refusing to address. The Council arranged for work in default to be undertaken in June 2021. There is no evidence to confirm the Council ever received payment for this work from the landlord. Severe health and safety risks as well as financial risks could materialise if requests like these are not followed up in a timely manner.

- Minor exceptions were found with two of five cases in relation to Uniform not being filled out correctly. These cases could have been closed but were not and the response date field had not been filled out by the officer despite action being taken.

We have not seen evidence that service request responses and resolution time metrics were monitored in any relevant monitoring meetings, or that any other enforcement related performance metrics had been developed. We were informed during the audit that the main focus of the service is to ensure landlords apply for a licence and to improve housing conditions and property management through the administration of the licence applications. The metric agreed with the Senior Leadership Team (SLT) to monitor this is the number of homes where housing hazards below the minimum legal standard have been addressed. Therefore, the Council have not produced further metrics on enforcement for Selective Licensing other than service request response and resolution times due to the reactive nature of the enforcement work.

Reliance is placed on officer experience to enable them to prioritise work and there is a risk that if these officers leave or retire sufficient guidance is not in place. There is a risk that without a formal prioritisation process in place high risk cases will not be identified and resolved efficiently, and officers will be unable to prioritise and manage workload effectively. Errors in documenting Service Requests on Uniform and lack of performance monitoring exacerbate this risk as management are less able to identify high risk cases which may have been overlooked and not resolved in a timely manner.

RECOMMENDATION:

- 1) The Head of Service should expand the Private Sector Housing Civil Penalties Policy to set out a methodology for how service requests should be prioritised. The Council could consider including a traffic light rating system within the initial inspection checklist to triage service requests and introduce a “priority indicator” action so that this assessment outcome is recordable on the database and can be reported on. The Council should also consider developing a process with the Council’s Customer Service Team to obtain the information required to triage the complaints. This will enable service teams to risk rate service requests and prioritise these in order of importance in relation to other work commitments
- 2) The Council should implement regular performance monitoring that identifies:
 - Number of cases that have not been responded to in the two-day period
 - Number of cases that have not been closed in the appropriate timeframe as set by the Council.

Access reports should be developed to extract key information on service requests for discussion at team meetings and reasons should be provided for exceptions. These should be monitored by the Head of Environment. We would suggest that this is carried out on a fortnightly basis to begin with until the backlog has been cleared. Following this, monitoring should be carried out at least monthly.
- 3) The Food Health and Housing Manager should send a reminder or provide refresher training to staff detailing the importance of documenting service requests correctly

- 4) The Service teams should implement management spot checks on one service request a month to ensure they are being filled out appropriately.

MANAGEMENT RESPONSE:

The service employ's band 9 professional Environmental Health Officers who are trained to identify, prioritise public health risks. This is a core skill developed during environmental health vocational training and assessed at the point of recruitment/employment. Both the team manager and Senior EHO are Chartered Environmental Health Officers who supervise the team and ensure that risks are addressed. We would argue that the observations relate to record keeping rather than actual risks. At team meetings we have a standard agenda item to discuss ongoing problem housing cases and workload, these discussions are an opportunity to discuss cases with management but do not necessarily feature on the meeting minutes which note general key actions rather than case discussions.

The example case study of an investigation into a leak comments on the lack evidence of debt recovery (bullet point one). Towards the end of the financial year the team went through every outstanding debtor to ensure the costs were recovered and invoices raised, training instruction and a new procedure were given to the team. The example case study highlights that the officer did assess the risk and intervened used the council's enforcement powers to address the hazards and protect the tenant this should be recognised a positive action in the case study.

However we agree that improvements can be made and will aim to implement all of the recommendations within this financial year. Discussions have already been held with team members based on the early audit findings

The team have developed and agreed a team statement which sets out the high level service plan priorities and officers are set annual targets to deliver the priorities in the performance development reviews. Staff are responsible for managing their own time and are encouraged to develop weekly and daily to do lists along with utilising outlook or a diary to manage their time.

Going forward we will improve monitoring of the 2 days response times and 6 monthly/annual service request closure targets. Currently the team meets roughly once per month. At every other team meeting we will have a focussed agenda slot to review performance against KPIs and the Gedling plan priorities to ensure that when updates are provided on the quarterly monitoring on Pentana the service targets are on track.

Responsible Officers: 1. Head of Service, Environment
2-4. Food Health and Housing Manager

Implementation Date: By End of March 2023.

RISK: THERE ARE LACK OF FORMAL H&S PROTOCOLS, RISK ASSESSMENTS AND TRAINING WITHIN WARDEN ENFORCEMENT AND SELECTIVE LICENSING ACTIVITIES WHICH COULD LEAD TO UNSAFE PRACTICES

Ref	Significance	Finding
2	Medium	<p>The Council's H&S policy was approved by the (Acting) Chief Executive in August 2018 and provides guidance on H&S management and responsibilities. H&S training is provided to all employees and staff involved in enforcement should receive appropriate training in the Regulation of Investigatory Powers Act 2000 (RIPA) requirements.</p> <p>We reviewed the Council's H&S Policy and training for the Selective Licensing Service Team and found:</p> <ul style="list-style-type: none"> The Corporate H&S Training log showed two out of three members of the team had surpassed scheduled review dates of 2014 and 2017 and one of five supporting team members had no training listed. Despite this, we have seen evidence of departmental risk assessments and guidance for visiting officers. We have also been advised that following a recent CHAS meeting, H&S training courses are being reviewed by the Council's provider at Bolsover and Northeast Derbyshire We were unable to establish officer eligibility for enforcement related training courses and who had completed RIPA training due to an inability to locate the training attendance documents. Officers are expected to maintain their own training records and attend courses that become available as and when required. <p>However, we have seen an attendance log confirming that all officers attended an investigation and case building training session in December 2020. A review of the training slides confirmed that it covered powers to investigate, legislation, how to approach an offender, collection of evidence and prosecution. Furthermore, we have been notified that all staff are trained to the Housing Health and Safety Rating System certificate of competence which ensures they can identify, assess, and address housing hazards which are a core function of the service although we have not seen evidence to verify this.</p> <p>There is a risk that if training records are not held and reviewed by management regularly, officers could receive inadequate, infrequent training and this could lead to risks of legislation non-compliance. We have raised this as a medium finding as due to the experience of the team, there is a good knowledge of health and safety and enforcement practices.</p>

RECOMMENDATION:

- 1) The Food Health and Housing Manager should develop a training tracker to be used within the Service Team to identify and record training eligibility and also log training completed, dates completed and scheduled review dates for all officers.

MANAGEMENT RESPONSE:

Agreed- Training record keeping was discussed at an extended departmental management meeting with Organisational Development and it was suggested each service should keep their own records. The Food, Health and Housing Team will set up a folder for filing training records.

Responsible Officer: Food Health & Housing Manager

Implementation Date: End of March 2023.

RISK: ENFORCEMENT PROTOCOLS HAVE NOT BEEN DEFINED, INCREASING THE RISK OF INAPPROPRIATE MANAGEMENT PRACTICES

Ref	Significance	Finding
3	Low	<p>The Council is required to have enforcement policies under the 2014 Regulator's Code. The Code states that regulatory activities should be carried out in a way, which is transparent, accountable, proportionate, and consistent.</p> <p>We reviewed the policies used by the Selective Licensing team at the Council and found that the Council has a robust Private Sector Housing Enforcement Policy and a Private Sector Housing Civil Penalties Policy which cover Selective Licensing and detail surrounding the enforcement procedure.</p> <p>However, the Private Sector Housing Enforcement Policy was found to be overdue for review at the time of the audit. The policy was last reviewed in March 2019 with the policy stating it will be periodically reviewed. The Private Sector Housing Civil Penalties Policy was also reviewed in March 2019 and has no version control information detailed although we have been informed that both policies are currently under review. Neither policy include author or approval information. However, we have been advised that the Civil Penalties policy is a corporate policy adopted by the portfolio holder where the author is the council and approval information is included within the portfolio holder report which authorises the formal adoption of the policy.</p> <p>If enforcement policies are not reviewed regularly, they may not include the most recent recommendations and guidance for officers carrying out enforcement activity which could lead to increased risk or reduced efficiency in their roles. Furthermore, it is essential to include author, approval and review information within policies to ensure that responsible officers have been identified and there is a clear audit trail.</p>

RECOMMENDATION:

- 1) The Private Sector Housing Enforcement Policy and Private Sector Housing Civil Penalties Policy should be reviewed to ensure they remain compliant with legislation and are relevant to current working practices. They should also be updated where necessary to include author, approval and review information.

MANAGEMENT RESPONSE:

Responsible Officer: Agreed, already in the work plan for the year.
Food, Health & Housing Manager

Implementation Date: End of March 2023.

OBSERVATIONS**HEALTH AND SAEFTY POLICY**

We noted during this audit that the Council's H&S Policy was last reviewed in August 2018 and does not set out when it is next due for review. We have been informed that the Council is intending to review the policy following a discussion held at a recent Corporate Health and Safety (CHAS) Meeting.

As this is a corporate issue and not the responsibility of officers audited within this audit, we will review this as part of our follow-up process and future Health and Safety reviews.

APPENDIX I - DEFINITIONS				
LEVEL OF ASSURANCE	DESIGN OF INTERNAL CONTROL FRAMEWORK		OPERATIONAL EFFECTIVENESS OF CONTROLS	
	FINDINGS FROM REVIEW	DESIGN OPINION	FINDINGS FROM REVIEW	EFFECTIVENESS OPINION
Substantial	Appropriate procedures and controls in place to mitigate the key risks.	There is a sound system of internal control designed to achieve system objectives.	No, or only minor, exceptions found in testing of the procedures and controls.	The controls that are in place are being consistently applied.
Moderate	In the main there are appropriate procedures and controls in place to mitigate the key risks reviewed albeit with some that are not fully effective.	Generally a sound system of internal control designed to achieve system objectives with some exceptions.	A small number of exceptions found in testing of the procedures and controls.	Evidence of non compliance with some controls, that may put some of the system objectives at risk.
Limited	A number of significant gaps identified in the procedures and controls in key areas. Where practical, efforts should be made to address in-year.	System of internal controls is weakened with system objectives at risk of not being achieved.	A number of reoccurring exceptions found in testing of the procedures and controls. Where practical, efforts should be made to address in-year.	Non-compliance with key procedures and controls places the system objectives at risk.
No	For all risk areas there are significant gaps in the procedures and controls. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Poor system of internal control.	Due to absence of effective controls and procedures, no reliance can be placed on their operation. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Non compliance and/or compliance with inadequate controls.

RECOMMENDATION SIGNIFICANCE	
High	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.
Medium	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.
Low	Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.

APPENDIX II - TERMS OF REFERENCE

PURPOSE OF REVIEW:

To provide assurance on the Council's environmental health services policies and procedures, assessing if they are up to date, accurate and robust and understood by staff. We will review case studies across a sample of different environmental service areas to ensure the Council is complying with its policies and procedures.

KEY RISKS:

Based upon the risk assessment undertaken during the development of the internal audit operational plan, through discussions with management, and our collective audit knowledge and understanding, the potential key risks associated with the area under review are:

- There are a lack of formal health and safety protocols, risk assessments and training which could lead to unsafe practices
- Work is not planned appropriately or prioritised correctly, which could lead to premises being unclean or becoming unsafe and extra costs being incurred
- Reported incidents or complaints are not appropriately prioritised, investigated or managed
- There is inadequate performance monitoring or escalation of issues to management.
- Enforcement protocols have not been defined, increasing the risk of inappropriate management practices
- There is lack of evidence that staff involved in enforcement have received appropriate training in the RIPA requirements, meaning they could unknowingly be exposing the Council to potential legal issues and reputational damage
- Risk profiling has not been carried out to identify high risks, resulting in enforcement activity not being directed to the areas of greatest risk
- Enforcement activity is not carried out in accordance with the Council's policies, including the issue of penalties and the collection of fines, leading to inconsistent practices.

SCOPE OF REVIEW:

The following areas will be covered as part of this review:

Environmental Health

- Review of Health and Safety policies, to ensure they are appropriate, available to staff and regularly reviewed and updated; and review of risk assessment protocols to ensure that risks are identified, scored, included on a relevant risk register and mitigated
- Review of schedules and formal work plans
- Sample testing of incidents/complaints to ensure appropriate actions are taken following the reporting of an incident, including prioritisation, response protocols, targeted actions, investigations, mitigations and follow-up actions and the documentation of any reasons for delays
- Review of monitoring arrangements to ensure regular performance reports are prepared, including all accidents, incidents and near misses; and that reports are presented to the appropriate monitoring committees, with follow up of actions raised.

Enforcement

- Review of defined enforcement protocols to ensure they take account of appropriate national guidance on selective licensing and highlight appropriate actions to be taken
- Review of central staff training tracker, supported by appropriate evidence to ensure staff have completed induction and refresher training or relevant continual professional development has been undertaken, to ensure compliance with current legislation (including RIPA)
- Review of risk profiling processes to ensure that enforcement is carried out where required, within appropriate timeframes and follow up action taken
- Sample testing of enforcement activity to ensure that it is carried out in accordance with the Council's policies/protocols, including investigation and the issue of fixed penalty notices and section 108 notices by the Public Protection officers, and prosecutions and collection of fines by Environmental Health Services.

FOR MORE INFORMATION:

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The matters raised in this report are only those which came to our attention during the course of our audit and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. The report has been prepared solely for the management of the organisation and should not be quoted in whole or in part without our prior written consent. BDO LLP neither owes nor accepts any duty to any third party whether in contract or in tort and shall not be liable, in respect of any loss, damage or expense which is caused by their reliance on this report.

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