

The logo for Eastleigh Borough Council is contained within a green rounded rectangular border. It features the word "EASTLEIGH" in a large, bold, green, sans-serif font on the top line, and the words "BOROUGH COUNCIL" in a smaller, green, sans-serif font on the bottom line.

**EASTLEIGH**  
BOROUGH COUNCIL

# LOCAL PLANNING ENFORCEMENT POLICY

September 2019

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## 1. Introduction

This policy sets out Eastleigh Borough Council's approach to planning enforcement. The Council will always follow an enforcement option that is commensurate with the breach of planning control to which it relates. However, Eastleigh Borough Council will be robust in the approach towards breaches of planning control through negotiation and enforcement. The starting point for each investigation will be to take formal enforcement action unless there is an appropriate alternative solution available having regard to the substantiated evidence of vulnerability or incapacity of the person or people being investigated.

Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement powers are discretionary, and the Council is not required to take action just because there has been a breach of planning control. It is important to appreciate that enforcement action cannot be taken if the works, or change of use, do not require permission/consent, or if it is permitted by legislation. For this reason, action cannot be taken on many of the reports we receive of alleged unauthorised development.

There are four main regimes within planning legislation and they are:

1. **Development** including building, engineering and mining operations; and material change of use of buildings/land
2. **Advertisements** and signs
3. **Listed Buildings** consent and conservation area
4. **Natural Environment** including Tree Preservation Orders and all trees within conservation areas.

Advertisements, Listed Buildings and unauthorised works to protected trees carry a criminal liability.

**A breach of planning law is not a criminal offence.** A criminal offence will only arise when a formal notice has been issued, it has taken effect and the requirements have not been complied with. Failure to comply with the notice means the Council can then consider bringing a prosecution in the criminal court.

## 2. Key Principles of Planning Enforcement

National and local planning policy provides the framework for acceptable development.

Planning enforcement can be reactive or proactive.

- **Reactive** – Reports of alleged breaches of planning control can be made by any person including local residents, Councillors and Parish Councils.
- **Proactive** – Monitoring of developments to ensure compliance with the approved plans and conditions. The intensity of an investigation will differ from site to site and is dependant on the nature of the development. Staff aim to proactively and positively resolve any problems that may arise during the development phase.

Sites that may be selected for monitoring include:

1. Major Sites
2. Contentious sites
3. Sites with land contamination and piling conditions.

However, some sites are selected for monitoring at random; if your development site is selected, you will be informed.

### **3. Enforcement Principles**

- **Proportionality** – Any action that is taken will relate to the seriousness of the breach. Staff will consider the full range of powers available to them which may include negotiation, inviting a retrospective planning application or taking formal enforcement action. In such cases the Council will proceed to enforcement action as a matter of course. However, the developer still has a right to apply for planning permission and if they do, enforcement action may be suspended pending the determination of a retrospective planning application. In all cases, the Council will consider the development itself and not how it came about.
- **Consistency** – Staff act in a similar way when faced with similar circumstances. The Council will also work with other services and Authorities to ensure that consistency is maintained at a local and national level as far as possible. It does not imply uniformity; rather a full and proper consideration of all the circumstances of a case, guided by the council's adopted policies and priorities, to establish what reasonable and adequate requirements will remedy the breach.
- **Transparency** – The Council will try to help people understand what the law requires of them and make clear what needs to be done to achieve compliance. The Council will also make clear what people should do if they are not happy about any action taken or a decision not to take action. The Council will also provide transparency and clarity on courses of action that will be undertaken.
- **Targeting**– The Council's enforcement efforts will be directed against those whose activities pose the most serious risks or create the most danger to the public interest and those who have a history of non-compliance.

### **4. What is a breach of planning control?**

As a district council, Eastleigh Borough Council has the authority to deal with all unauthorised development, with the exception of mining and mineral extraction and waste deposit and disposal which are enforced by Hampshire County Council.

Development is defined as:

*“Except where the context otherwise requires...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land” (S.55 Town and Country Planning Act 1990)*

A breach of planning control is either:

- carrying out development without the required planning permission or
- failing to comply with any condition or limitation subject to which planning permission has been granted.

**Breaches of planning control will include:**

- Unauthorised structures
- Development not in accordance with the approved plans of the planning permission
- Material change of use of a building or land
- Failure to comply with the conditions attached to a planning permission
- Failure to properly maintain land/buildings, adversely affecting amenity of the area
- Tree works undertaken without tree works consent

**The following are not breaches of planning control:**

- Parking of commercial vehicles in residential areas or on grass verges
- Operating a business from home where the residential use remains the primary use
- Clearing land of undergrowth, bushes and trees provided they are not subject to a planning condition or protection order
- Parking of a caravan within the curtilage of a residential property provided that it is stored, or used as an extra bedroom in conjunction with the main dwelling and not used as a separate, self-contained residential unit
- Obstruction of a highway or right of way
- Boundary disputes (civil matter)
- Deeds and covenants (civil matter)
- Disputes that relate to damage to or reduction in value of land or property.
- Reduction in value of land or property
- Where development is 'permitted development' (see below)

The Council has a number of powers of enforcement in relation to other services such as highways, environmental health, trees etc. Investigations are often coordinated with other services so that any action is carried out under the most appropriate legislation.

All development requires a planning permission of which there are two types:

**1) Express Planning Permission:** Local Planning Authorities grant “express” planning permission through the planning application process.

**2) Deemed Planning Permission:** Also known as ‘permitted development’, this is planning permission which is granted by the classes listed within the Town and Country Planning (General Permitted Development) Order 2015. Deemed planning permission is granted if the development conforms to the exceptions, limitations and conditions that apply to these classes. Prior approval can also be sought under this legislation for certain types of development.

## 5. What is planning harm?

Enforcement action will only be taken where there is planning harm. A key test is whether the breach of planning control would unacceptably affect public amenity and is a clear breach of planning policy.

Evidence of unauthorised development will be assessed against material considerations as used by the Local Planning Authority when determining a planning application, including, but not limited to:

- Visual harm
- Change in character
- Privacy/ overbearing
- Daylight/ sunlight
- Noises/ smell etc.
- Access/ traffic
- Health & safety
- Undesirable precedent
- Ecology
- Related decisions
- Cumulative impact
- Sensitive site
- Ages of breach

## 6. What are the Council's planning enforcement priorities?

It is not possible to investigate every complaint or carry out all investigations with equal priority and intensity. Resource is directed to breaches that cause the greater planning harm. For example, potential permanent damage to a historic listed building will have a greater priority than a new shed in a residential garden.

The priorities below can change during the course of an investigation:

<b>Priority 1</b> Danger to the public?  <b>Direct and potentially irreversible harm?</b>	<b>Priority 2</b> Potential to escalate and cause serious harm to the environment?  Contentious	<b>Priority 3</b> Loss of amenity? Other breaches likely to remain stable	<b>Priority 4</b> Minor breaches Private dispute? Other issues
<b>Site visit within 1 working day</b>	<b>Site visit within 10 working days</b>	<b>Site visit within 20 working days</b>	<b>Desktop Assessment</b>
<b>Examples</b>	<b>Examples</b>	<b>Examples</b>	<b>Examples</b>
Unauthorised works to protected tree/s or tree/s in a Conservation area	Unauthorised change of use of land and/or building	Untidy site	Boundary treatment
Unauthorised works to listed building	Unauthorised building	Unauthorised outbuildings/ Extensions	Telecommunications

Condition monitoring (contaminated land + piling)	Condition monitoring (minus contaminated land + piling)	Deviation from approved plans (new application required, minor variation or de minimis)	General enquiries
Demolition of a building essential to retain	Business from home (high activity levels)	Advertisement control (visual amenity)	Advertisement control (for sale / to let boards)
Caravans & development related to travellers	Advertisement control (highway safety)	Business from Home (initial investigations)	House in multiple occupation
Breach of condition (serious harm to amenity & ecology)		Breach of condition (all other alleged breaches)	
Deviation from approved plans (irreversible harm)		Condition monitoring (Small schemes)	
High hedges (fee applicable)		Encroachment onto Council land	

## 7. How do I report an alleged breach of planning control?

**Anonymous reports** will not be investigated unless they relate to a matter of public safety or irreversible public harm.

It is useful for us to have as much information as possible such as:

- Description of the alleged breach
- Date the activity started, is it happening now, is it getting worse?
- Site address (if it is a field, describe the surrounding area to help identify the exact site)
- Name/address/telephone number of the site owner/occupier/builder/agent
- Description of the 'harm' being caused e.g. noise, traffic, smells
- Name/address/telephone number of the complainant.

Eastleigh Borough Council actively encourages the use of the on-line form to report an alleged breach of planning, which can be found by following this link:

<https://www.eastleigh.gov.uk/planning-building/planning/planning-enforcement.aspx#Complaint>.

You can also contact Eastleigh Borough Council in person, by telephone on 02380 688000 or by letter to the following address;

Planning Enforcement  
 Eastleigh Borough Council  
 Eastleigh House  
 Upper Market Street  
 Eastleigh  
 Hampshire  
 SO50 9YN

For out of hours contact, please ring, 02380 688000 and follow the option menu (This is strictly for **emergencies** only, such as the felling of a protected tree)

## 8. Confidentiality

All investigations are dealt with in the strictest confidence and details of the complainant will not be made known without their agreement. However, the nature of the alleged breach is not confidential. Every effort is made to safeguard the confidentiality of the complainant, but the Council cannot prevent assumptions being made by the site owner/occupier.

## 9. How long will the investigation take?

An enforcement investigation can be lengthy and complex, and the time taken to determine each case will vary.

On receipt of an alleged breach the Council aims to:

- Register and acknowledge your complaint within 5 working days
- Carry out the initial site visit:
  - **Priority 1** cases within 1 working day
  - **Priority 2** cases within 10 working days
  - **Priority 3** cases within 20 working days
  - **Priority 4** cases will involve a desktop assessment and a site visit may not be required.
- Provide an update at key stages in the investigation and when significant progress has been made
- Advise the person reporting and site owner/occupier of the outcome of the investigation and any further action required:
  - Priority 1** cases within 30 working days
  - Priority 2** cases within 90 working days
  - Priority 3 and 4** cases within 42 working days

## 10. What if someone makes a report about me or my property?

If you are contacted about an alleged breach of planning control you are entitled to know what the allegation is (but not who reported it) and you will be given an opportunity to respond on the alleged breach. Your co-operation may be sought to remedy a breach of planning control. A reasonable period of time will be allowed for you to do this. In some circumstances, you may be invited to submit a retrospective planning application.

The Council will in most cases give you a chance to put matters right before taking formal action but if the breach is causing serious harm or nuisance to public amenity formal action will not be delayed by protracted negotiation.

## 11. Investigating breaches of planning control

Staff will research the planning history of the site, which may reveal that no breach has occurred or that further investigation is required.

## Site Visit

In most cases, staff will undertake a site visit to establish whether a breach of planning control has taken place.

## Powers of Entry

The Council's authorised officers have powers of entry under the provisions of the Town and Country Planning Act 1990 to enter land to investigate alleged breaches of planning control, take notes, measurements and photographs.

If the building is used as a house, 24 hours' notice of the intended entry will be given to the occupier of the building.

If during a site visit staff are refused entry onto land or buildings, the Council has the right to apply to the Magistrates Court for a warrant to enter the property. This course of action will only be taken in cases where it is considered both necessary and proportionate to the alleged breach under investigation.

Any person who wilfully obstructs an authorised officer acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(<https://www.legislation.gov.uk/ukpga/1982/48/part/III/crossheading/introduction-of-standard-scale-of-fines>).

The powers of entry assigned to carry out activities and investigations are pursuant to

- Section 196A, B and C, 214B, C and D 324, 325 of the Town and Country Planning Act 1990.
- Section 88, 88A and 88B of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) to enter land or premises at any reasonable time.
- Section 74 of the anti-social Behaviour Act 2003 for the purposes of complaints and appeals.

## Information Gathering Tools

There are three tools used for gathering information on an alleged breach of planning control:

1. Planning Contravention Notice (PCN)  
A planning contravention notice may be issued under [section 171C of the Town and Country Planning Act 1990](#) and can be used for the following:
  - a. to allow the local planning authority to require any information that will assist for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and;
  - b. to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied.

*See Section 15 of this Policy for further information on PCN's.*

## 2. Section 330 Notice (Requisition for Information)

A Section 330 Notice may be issued under [Section 330 of the Town and Country Planning Act 1990](#) and is used to obtain information as to interests in land. The questions asked are;

- The nature of the interest in the premises of the person on whom the notice is served
- The name and address of any other person known to have an interest
- The purpose for which the premises are being used
- The time when that use began
- The name and address of any person known to the person on whom the notice is served as having used the premises for that purpose
- The time when any activities being carried out began

## 3. Section 16 Local Government (Miscellaneous Provisions) Act 1976.

Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Local Authority to request particulars of persons interested in the land.

These can be served on any person with an interest in the land or who use/rent the land or property. These notices do not register as a Land Charge and are not included on the Council's Enforcement Register. Failure to respond to any of the above Notices within the specified time frame is a criminal offence.

## **12. Immunity from Enforcement Action**

If a breach of planning control has been ongoing for many years, the breach may become immune from enforcement action and therefore the development becomes lawful. (as if planning permission has been granted). However, this does not apply to Listed Building or Tree Preservation Order breaches; which are criminal offences and a prosecution can be brought.

Planning Enforcement breaches immunity timescales are listed below:

<b>Activity</b>	<b>Immune after</b>
Operational development	Substantially completed for 4 years +
Change of use of a building to a single dwelling house	Continuous occupation for 4 years +
Change of use	Continuous occupation at the same intensity for 10 years +
Breach of a condition on a planning permission	Continuous non-compliance for 10 years +
Advertisements	Continuous display for 10 years +

The Localism Act 2011 introduced the 'Planning Enforcement Order'. A Planning Enforcement Order can be applied for from the Magistrates Court after the above time limits have expired if

the breach of planning control has been **deliberately concealed** e.g. a house hidden within a barn for over 4 years.

### **13. Possible Outcomes**

Many breaches of planning control reported are very minor and formal action cannot be justified, so it is important to be aware that the Council will not rectify all breaches of planning control and will only act when it is expedient. Action will only be taken where there is an unacceptable effect on the built and natural environment and public amenity. The outcome of each case will be based on the individual circumstances of each investigation and the planning merits of the unauthorised development. The key test is whether the unauthorised development is causing harm having regard to the development plan policies and other material considerations. This is often referred to as the 'expediency test'.

The possible outcomes are:

- **No breach of planning control:** The development may be Permitted Development or is not within the control of planning legislation.
- **There is a breach of planning control, but it is not expedient to pursue:** If a technical breach has taken place, for example a house extension that is marginally over Permitted Development limits then it is not normally worthwhile to take lengthy and expensive enforcement action over something that is causing minimal harm.
- **The development is immune:** The activity has been going on for so long or the structure has been substantially complete for such a long time that the development has become 'lawful'.
- **Negotiate a resolution with the site owner/occupier:** Many people do take the positive steps required to rectify the situation (eg. remove/reduce/alter/relocate) and formal enforcement action is only necessary in a small number of cases.
- **Invite a retrospective planning application to regularise the breach:** In some cases, the most appropriate way to rectify a breach of planning control is to invite a retrospective planning application. This approach is taken when Planning Officers consider the principle of development accords with planning policy and there is a possibility that a planning application could be successful in light of relevant planning policies. We will only pursue the submission of a retrospective application if there is a need to control the breach of planning through conditions. An invitation to submit a retrospective planning application will not prejudice either the subsequent recommendation or the ultimate decision of the Council as each application is considered on its merits.
- **Take formal enforcement action:** If we are unable to negotiate a resolution or the breach is considered so severe that a retrospective application would not be invited the Council has the power to take formal enforcement action. The nature of the breach will dictate what route the Council chooses to pursue. Failure to comply with a formal notice leaves the site owner/occupier open to the risk of prosecution. Alternatively, the Council may take direct action to undertake the appropriate works and recover the costs.

## **14. Formal Enforcement Action**

The Council's approach to formal enforcement action is built around a process of a number of steps before enforcement action is taken. The following are the course of actions that may be taken in relation to formal Notices.

### **Planning Enforcement Notice (PCN)**

A planning contravention notice may be issued under [section 171C of the Town and Country Planning Act 1990](#) and can be used to do the following:

- allow the local planning authority to require any information they want for enforcement purposes about any operations being carried out; any use of; or any activities being carried out on the land, and;
- can be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied.

A planning contravention notice may only be served when it appears to the local planning authority that a breach of planning control may have occurred and they want to find out more information before deciding what if any enforcement action to take. It should not be used to undertake an investigative trawl just to satisfy the local planning authority about what activities are taking place on a parcel of land.

This is a discretionary procedure – the local planning authority need not serve a planning contravention notice before considering whether it is expedient to issue an enforcement notice or to take any other appropriate enforcement action.

A planning contravention notice is not available for use where there are suspected breaches of listed building or conservation area control, hazardous substances control or control of protected trees.

There is no requirement to enter a planning contravention notice in the local planning authority's register of enforcement notices, stop notices and breach of condition notices. The notice is not a legal charge on the land.

A failure to complete or return a notice within 21 days is an offence, as is providing false or misleading information on the notice ([section 171D of the Town and Country Planning Act 1990](#)).

### **Enforcement Notice (EN)**

The power to issue an Enforcement Notice (EN) is granted by ([section 172 of the Town and Country Planning Act 1990](#)). An EN is the most widely used power available to remedy a breach of planning control that relates to unauthorised building works, a change of use or possibly a breach of condition. The Notice must clearly state:

1. The alleged breach of planning control
2. What is required to remedy the breach of planning control
3. The time available to comply with the requirements of the Notice (compliance period)

The Notice must be served on anyone having an interest in the land.

There is a right of appeal for anyone who has an interest in the land to which the EN relates, or who is a relevant occupier on the following grounds:

- a. That planning permission ought to be granted or the condition or limitation concerned ought to be discharged;
- b. That the matters stated in the enforcement notice have not occurred;
- c. That the matters stated in the enforcement notice (if they occurred) do not constitute a breach of planning control;
- d. at the date when the notice was issued, no enforcement action could be taken;
- e. The copies of the enforcement notice were not served in accordance with the relevant statutory requirements;
- f. the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary either to remedy any breach of a planning control or to remedy any injury to amenity which has been caused by any such breach; and/or
- g. That any period specified in the notice falls short of what should reasonably be allowed.

An EN takes effect when the time limit available for lodging an appeal (at least 28 days after service) has expired. In the event that an appeal is lodged any enforcement action is suspended pending the outcome. An Inspector can uphold the Notice in its entirety, vary a Notice (providing it is only a minor change) or quash the Notice. In the event the Notice is upheld (changed or unchanged) the date of the Inspectors decision letter will be the start date for the compliance date.

### **Breach of Condition Notice (BCN)**

The power to serve a BCN is contained in [section 187A of the Town and Country Planning Act 1990](#).

A notice can be issued either:

- Where a condition of a planning permission has not been complied with during the development stage i.e. failure to provide fencing to protect trees while a development is underway, or
- Following completion, failing to comply with restrictions or limitations of a planning permission i.e. a breach of opening hours.

Not less than 28 days are given to the recipient to either respond or remedy the breach before the Notice takes effect. There is no right of appeal against a BCN and failing to comply with the requirements of a BCN is a criminal offence.

### **Full and Temporary Stop Notices / Injunctions.**

Where a breach of planning control is causing significant harm, the council has powers to take emergency action to compel it to stop. This action may be by way of a stop notice or injunction (Section 187B of the Town and Country Planning Act 1990) and dependant on the circumstances of the cases it may be temporary or permanent.

This refers to Stop or Temporary Stop Notices (Section 183 and 184 of the Town and Country Planning Act 1990). Emergency action is only taken in exceptional circumstances, where the risk of irretrievable harm is real or considered imminent.

A Temporary Stop Notice can be issued to support an Enforcement Notice and has the general effect of requiring a breach of planning control to cease almost immediately.

Compensation can be payable if the Enforcement Notice to which the Stop Notice relates is quashed on appeal. A full Stop Notice is only used in exceptional circumstances.

### **Section 215 Untidy Land Notice.**

The Council can serve a Notice if land and/or buildings are in such a condition that it adversely affects the amenity of the area. The Notice requires the recipient to remedy the matter by undertaking the steps specified in the Notice. Such Notices are suitable to remedy the appearance of a site, i.e. clearing land of derelict cars or remedying untidy gardens of domestic properties. A failure to comply with a Section 215 Notice can result in a prosecution being brought in the Magistrates Court.

### **Direct Action / Works in Default**

Where the Council has issued a Statutory Notice, for example a Section 215 Notice for untidy land and those responsible for the breach have failed to comply; the Council has powers to carry out the works specified in the Notice.

This is referred to as direct action, which is a useful tool that can resolve many different breaches of planning control and is generally most effective when used to remove unauthorised building operations and clearance of land. The Council has powers to recover any expenses incurred as a result of direct action and unpaid expenses can be either pursued as a debt in the County Court or registered as a land charge payable when the land/building is sold.

### **Cautions**

In some instances, the Council may have sufficient evidence to prosecute an individual or business for failing to comply with a Notice, if it is in the public interest to do so. When this applies, the Council may offer a simple caution to the offender(s). A simple caution is not a criminal conviction rather an admission of guilt and remains on the Councils Cautions Register. If further similar offences are committed the Council may bring the caution to the attention of the court on conviction. This may result in a harsher sentence for any latter offences(s).

If any individual or business refuses to accept a caution, the case will be considered for prosecution.

### **Planning Enforcement Order**

Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action have expired. A Planning Enforcement Order enables an authority to take action in relation to an

apparent breach of planning control notwithstanding that the time limits may have expired.

A local planning authority must have sufficient evidence of the apparent breach of planning control to justify applying for a planning enforcement order. A magistrates' court may only make a planning enforcement order if it is satisfied on the balance of probabilities that the apparent breach of planning control (or any of the matters constituting that breach) has (to any extent) been deliberately concealed and that it is just to make the order having regard to all the circumstances.

The effect of a planning enforcement order is that the local planning authority will be able to take enforcement action against the apparent breach of planning control or any of the matters constituting the apparent breach during the "enforcement year". This means that once the "enforcement year" has begun, the local planning authority can at any time during that year, take enforcement action in respect of the apparent breach of planning control or any of the matters constituting that breach. The "enforcement year" does not begin until the end of 22 days starting with the day on which the court's decision to make the order is given, or when any appeal against the order has been finally dismissed, or the appeal withdrawn.

A local planning authority may make an application even if the normal time limit for enforcement action has not expired. This is to allow for the possibility that evidence may come to light very close to the end of the normal time limits for taking enforcement action, when there may be insufficient time to draft and issue an enforcement notice, or where there may be doubt as to when the time limits actually expire. For example, where the date of substantial completion is not certain.

The local planning authority is not prevented from taking enforcement action once the enforcement year has ended provided that the normal time limits for enforcement action have not expired ([section 171BA of the Town and Country Planning Act 1990](#)).

## **Enforcement Register**

The Council has a statutory duty to hold and maintain an enforcement register. This record details basic information in respect to what Notices have been served but does not detail the investigation in depth. The Notices contained in the statutory enforcement register are:

- Enforcement Notices
- Breach of Condition Notices
- Full stop Notices
- Temporary Stop Notices

The enforcement register is a public record and can be viewed online at [www.eastleigh.gov.uk](http://www.eastleigh.gov.uk).

## **15. Advertisements**

### **How are unauthorised advertisements controlled?**

There are several provisions under which unauthorised advertisements can be controlled by the Council. The principal mechanisms are in section 224 and section 225 of the Town and Country Planning Act 1990 (as amended). The Council has specific powers to deal with:

- illegal hoardings;
- fly-posting;
- graffiti; and
- unauthorised advertisements alongside highways.

### **What action is possible in relation to display structures for illegal advertisements (i.e. hoardings)?**

Section 225A of the 1990 Act (as amended) allows the Council to remove and dispose of any display structure – such as an advertisement hoarding – which, in their opinion, is used for the display of illegal advertisements.

### **What action is possible against fly-posting?**

The Council can take action against persistent unauthorised advertisements on 'surfaces'. Action can be taken against those responsible for fly-posting, the beneficiaries of fly-posting and the owners of surfaces that are the subject of fly-posting.

Section 225 of the 1990 Act enables the Council to remove or obliterate any placard or poster displayed illegally in their area. Before this power is exercised, 2 days advance written notice will be given to anyone who can be identified as the person responsible for the display.

### **What action is possible against graffiti?**

The Council can take action against signs (such as graffiti) on surfaces which are readily accessible to the public, which is considered to be detrimental to the amenity of the area or offensive (section 225F).

The Council may serve a notice on the occupier of the premises requiring them to remove or obliterate the sign allowing at least 15 days to comply. If there appears to be no occupier, the authority may fix the notice to the surface.

If action is not taken within the time specified, the local planning authority may take the action itself and recover its expenses from the person who should have done it.

### **What action is possible against unauthorised advertisements alongside highways?**

Section 132 of the Highways Act 1980 enables the Highway Authority to remove unlawful advertisements such as pictures or signs attached to any trees, highway signs, structures or works in the highway.

## **16. Investigation Standards**

If you have a problem with the service provided, please contact the investigating Officer in the first instance. If you remain dissatisfied with the service provided, the action taken or the lack of action, a formal complaint can be made in accordance with Eastleigh Borough Council's Complaints Procedure. For details please visit our website: <https://www.eastleigh.gov.uk/the-council/compliments,-complaints-comments.aspx>.

## **17. What can the public do to help?**

The assistance of the general public is crucial to planning enforcement. Due to the amount of development within the Borough, it is impossible for the Borough Council to identify all possible breaches of planning control without support and assistance from other interested parties. Many enforcement investigations commence following a complaint from the general public who notice changes or new development within their local area. Any reports of a suspected breach of planning are treated as confidential and details of who reported the breach are not disclosed to the person or persons being investigated.