

Corporate Enforcement Strategy



Foreword

Our People Our Place Our Plan outlines our aims and aspirations for Tameside, its people and how we commit to work for everyone, every day. The plan is structured by life course – Starting Well, Living Well and Ageing Well, underpinned by the idea of ensuring that Tameside is a great place, and has a vibrant economy.

This corporate enforcement strategy supports this approach by protecting the public, the environment and groups such as consumers and employees but at the same time, supporting a thriving local economy ensuring these functions are carried out in an equitable, practical and consistent way.

This enforcement strategy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Code 2014 and the regulatory principles required under the Legislative and Regulatory Reform Act 2006.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those who are regulated. The Council regards prevention as better than cure and recognises that most businesses want to comply with the law. It is important that the functions are carried out in a fair and consistent manner. We will therefore, take care to help businesses and others to meet their obligations without unnecessary expense, whilst taking action, including prosecution, against those who flout

the law, act irresponsibly or have a detrimental effect on the life of those living in the locality.

To help businesses a service called 'Business Compliance Support' has now launched across Greater Manchester (GM). All local authorities from across GM have come together to support the project. Over the next two years Business Compliance Support will offer free regulatory and compliance support and signposting to small and medium businesses across GM allowing them more time to focus on growth.



Councillor Laura Boyle

Executive Member for Environmental Services and Neighbourhoods



Introduction

The Council recognises that fair and effective enforcement is essential to protect the economic interests and health and safety of the public, businesses and the environment. This strategy sets out the general principles which the Council will follow in relation to enforcement activity.

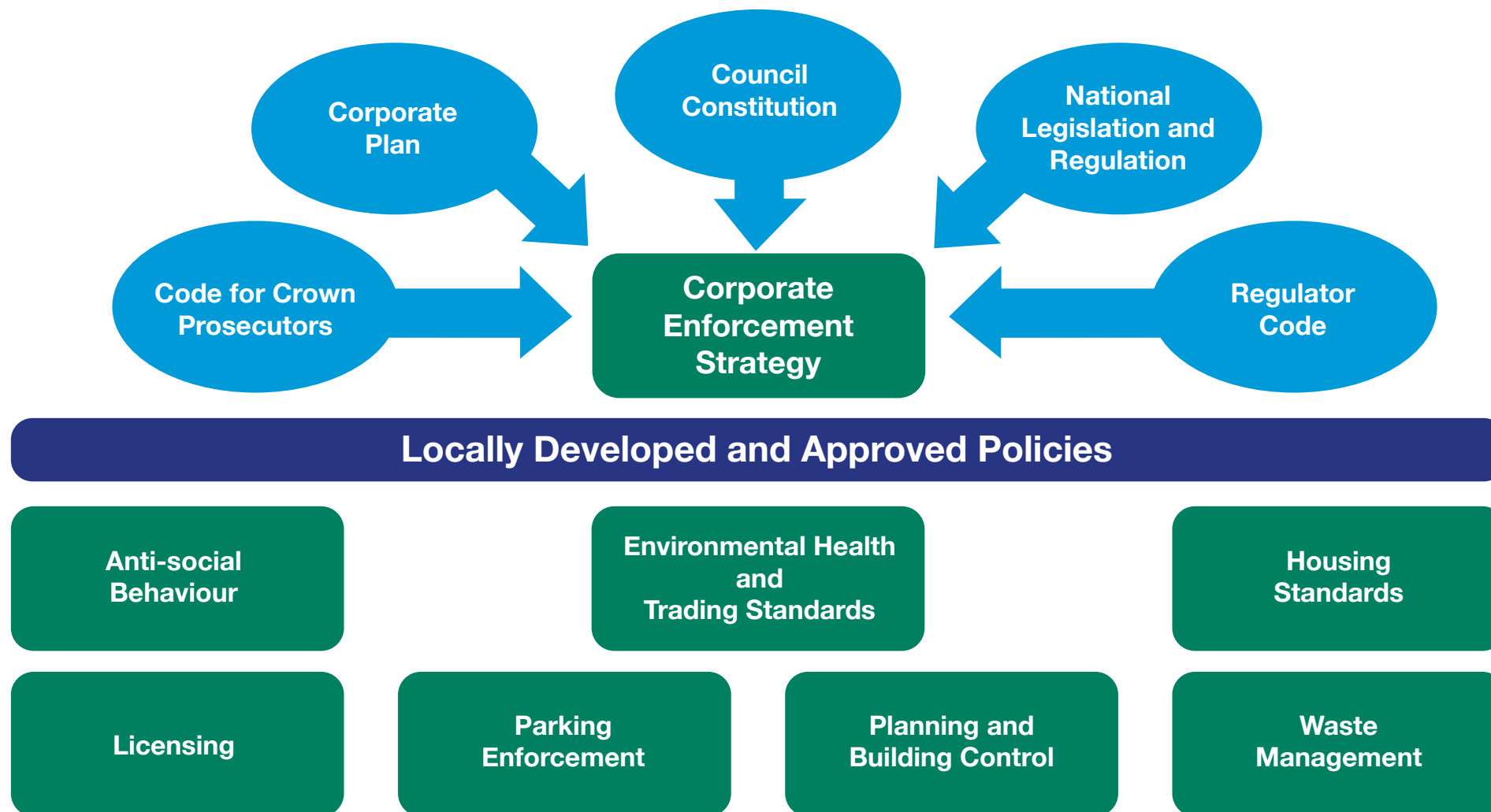
The purpose of adopting a Corporate Enforcement Strategy is to create one overarching strategy encompassing the key factors and principles common to all aspects of enforcement undertaken by the Council.

The Council's regulatory functions are extensive. This corporate strategy relates to all Council services that operate a regulatory function within or on behalf of the Council. They include Environmental Health, Licensing, Animal Health & Welfare, Trading Standards, Health & Safety, Planning, Building Control, Environmental Protection, Private Sector Housing, Parking Services, Environmental Enforcement including Waste & Litter, Community Safety, including Antisocial Behaviour and Highways. (Please note that this is not an exhaustive list and refers to the 'traditional' name of the service area/function for simplicity).

The strategy is intended to create a framework to ensure that there is a fair and consistent approach to the way enforcement activity is carried out. This strategy sits above other service-based policies and provides the broad framework for their implementation. The service specific policies will provide further clarity for those individuals or businesses subject to enforcement action by that service of the scope of enforcement sanctions available.



The graphic below highlights the relationship between the Corporate Enforcement Strategy and local work area specific policies, and how they fit with the Corporate Plan, National Regulation, Policy and Codes:



Purpose and Methods of Enforcement

The purpose of enforcement is to ensure that preventative or remedial action is taken to secure compliance with legal requirements. In addition we will ensure that duty holders take action to deal immediately with serious risks. Our preferred method of ensuring compliance is by working together with those who are regulated. Although the Council expects full voluntary compliance with legal requirements, it will not hesitate to use its enforcement powers where necessary.

Conduct on Investigations

All investigations will be carried out in accordance with relevant Legislation and any associated guidance or codes of practices. Such as the Criminal Procedures and Investigations Act 1996, the Regulation of Investigatory Powers Act 2000 and the Police and Criminal Evidence Act 1984

These Acts control how evidence is collated and used and give a range of protections to citizens and potential defendants.



Enforcement Options

There are a variety of enforcement actions available to the Council.

Advice / education	The provision of advice on how to comply with the law outlining contraventions and recommendations.
Business Compliance Support/ Primary authority partnership	Working with the business community to help them understand and comply with the law.
Warning letter	A written warning outlining clearly what needs to be done to rectify a breach and to prevent a re-occurrence. If a similar breach is identified in the future or the letter is not complied with further enforcement action may be taken.
Statutory notices/Orders	In respect of many breaches Statutory Notices/Orders may be issued. These are legally binding. Failure to comply with a Statutory Notice or Order can be a criminal offence and may lead to prosecution and/or where appropriate, the carrying out of work in default.
Voluntary Undertakings	In some cases voluntary undertakings that breaches will be rectified and/or reoccurrences prevented may be accepted by the council. The council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.
Works in default	Where there is a failure to carry out works specified in a statutory notice, the Council may carry out such works in default and recharge the cost of the works to the recipient of the notice.
Official Caution	A specific form of warning where an individual admits committing an offence. These are used in cases where a prosecution could be brought but there are strong mitigating factors. The Council will have full regard to Home Office Guidelines when administering cautions.
Fixed Penalty Notice	A fixed penalty is not a criminal fine and does not appear on an individual's criminal record. If a fixed penalty is not paid, the council may commence legal proceedings.
Prosecution	The prosecution of cases in the criminal courts. Prosecution will only be considered when the council are satisfied that there is sufficient evidence to provide a realistic prospect of conviction. The Public Interest test will also be applied. We will follow the principles laid down in the Code for Crown Prosecutors Act 1985.



Seizure and Detention	Officers may seize and detain goods, substances, equipment or documents when an officer reasonably suspects they may be used as evidence.
Proceeds of Crime Orders	Under the Proceeds of Crime Act, Accredited Financial Investigators have power to take steps to identify and recover assets derived from criminal conduct.
Enforcement Order	A court order preventing businesses from engaging in activities which harm the collective interests of consumers.
Compulsory Purchase Order	In certain extreme cases once all other options have been exhausted the Authority may have to apply for a compulsory purchase order in order to bring a property back into use.
Civil Injunction	In some circumstances the Council may seek a direction from the court (in the form of an injunction) that a breach is rectified and/or prevented from reoccurring. The court may also direct that specific activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.
Monetary Penalty	Where the power exists to do so the authority may by notice require the person to pay the authority a monetary penalty of such amount as the authority may determine subject to the maximum limits set out in legislation.
Refusal, Suspension, Amendment or Revocation of a Licence	The Council may determine whether to grant, suspend or take necessary steps in relation to a licence issued by the authority in order to promote the relevant licensing objectives.
Penalty Charge Notice	A penalty charge notice is not a criminal fine and does not appear on an individual's criminal record. If a penalty charge notice is not paid, the Council may commence debt recovery procedures.

This is not an exhaustive list. There are other options for formal action that are available to certain officers under the legislation that they enforce on behalf of the Council or other sanctions that may be provided for in subsequent legislation.



In considering the most appropriate course or type of action to take, we will follow the general principles in the Code for Crown Prosecutors issued under the Prosecution of Offences Act 1985. We will have regard to a number of factors including the:

- a) Evidential test;
- b) Seriousness of the alleged offence or situation;
- b) Previous history of the individual or company;
- c) Consequences of non-compliance;
- d) Confidence in management;
- e) Public interest test;
- f) Effectiveness of various enforcement options; and
- g) Availability of other appropriate courses of actions.



A B C D E F F G

Principles of Enforcement

The Legislative and Regulatory Reform Act 2006 requires every local authority to have regard to the five principles of Good Regulation when carrying out specific regulatory functions.

A. Proportionality

The enforcement action taken by the Council will be proportionate to the risks posed and to the seriousness of the breach.

B. Accountability

Our activities will be open to public scrutiny, with clear and accessible policies, and a fair and efficient complaints procedure.

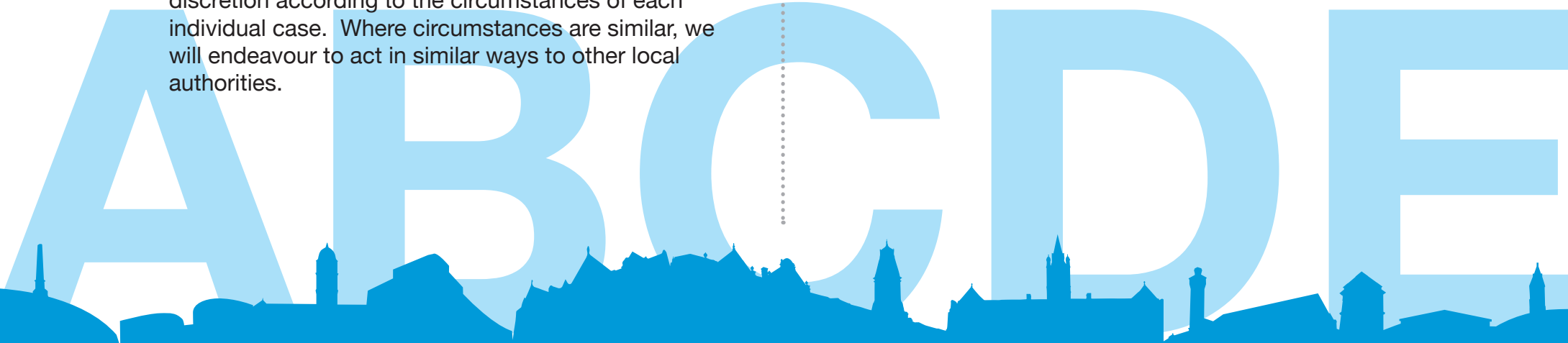
C. Consistency

The Council aims to carry out its duties in a fair, equitable and consistent manner. Consistency does not mean simple uniformity. Officers will need to exercise their professional judgement and discretion according to the circumstances of each individual case. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.

D. Transparency Transparency is important in maintaining public confidence in the Council's ability to regulate. It means helping those regulated and others to understand what is expected of them and what they should expect from the Council. It also means making it clear why an officer intends to or has taken enforcement action.

E. Targeted

Targeting means making sure that regulatory effort is directed primarily towards higher risk businesses and activities and reflects on both local and national priorities.



Training and Authorisations

The Council's Constitution identifies the roles and responsibilities in connection with the enforcement function. A scheme of delegation is also in place which specifies the extent to which each officer is authorised to act and under what legislation they may do so.

All officers undertaking enforcement duties will be trained and competent in their specific work areas operationally and technically. The performance of officers will be monitored and reviewed and additional training needs identified in line with this.

Working in Partnership with Others

There will be occasions that the Council will be involved in cases that will require working in partnership with other enforcement agencies, for example the Police, Greater Manchester Fire and Rescue Service, Health and Safety Executive, Food Standards Agency, Housing Associations, Environment Agency and the RSPCA. The Council will liaise with that other body to ensure effective co-ordination.

Equality and Diversity

In carrying out its duties, the Council will respect the rights and freedoms guaranteed to individuals under the Human Rights Act 1998. The Council will also take into account our statutory duty to promote equality and diversity when making decisions. Throughout any enforcement investigation, or when making any assessments or decisions on whether or not to recommend any particular course of action, the Council will strive to ensure that no person experiences discrimination or is disadvantaged because of any of the protected characteristics. The Council's Equalities Strategy 2023 -2027 will be followed.



Data Protection Act 2018 and General Data Protection Regulations 2018 (GDPR)

Where there is a need for Tameside Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 2018 and General Data Protection Regulations 2018 (GDPR). Information will be shared in line with the relevant data protection requirements and information sharing agreements.

Enforcement in Council Run Premises

Certain premises operated by the Council will be subject to enforcement visits which are relevant to the particular field of operation. These visits will be carried out in accordance with the appropriate legislation and relevant Codes of Practice. Any serious or significant contraventions which are detected during the course of such visits will be notified in writing to the appropriate Assistant Director and copies sent to the service's Director without undue delay.

Avoiding Potential Conflicts of Interest

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



Monitoring and Review of the Policy

This policy will be reviewed from time to time. This will be in the light of any relevant changes in legislation or updated codes of practice.

Contact Us

The Council encourages and welcomes feedback on its services. If you wish to provide feedback or require any further information in relation to this Enforcement Strategy you can do so by visiting:

Customer Services Contact Centre by phone:

Call **0161 342 8355**

Or use our web chat service on www.tameside.gov.uk Click the small blue Chat with us live box.

Staff are available from:

Mon-Wed 8:30am-5pm

Thursday 8:30am-4:30pm

Friday 8:30am-4pm

(excluding bank holidays)

Customer Services Contact Centre by email:

Emails can be sent to the Customer Services team 24/7 by emailing customer.services@tameside.gov.uk

By post:

Tameside Metropolitan Borough Council

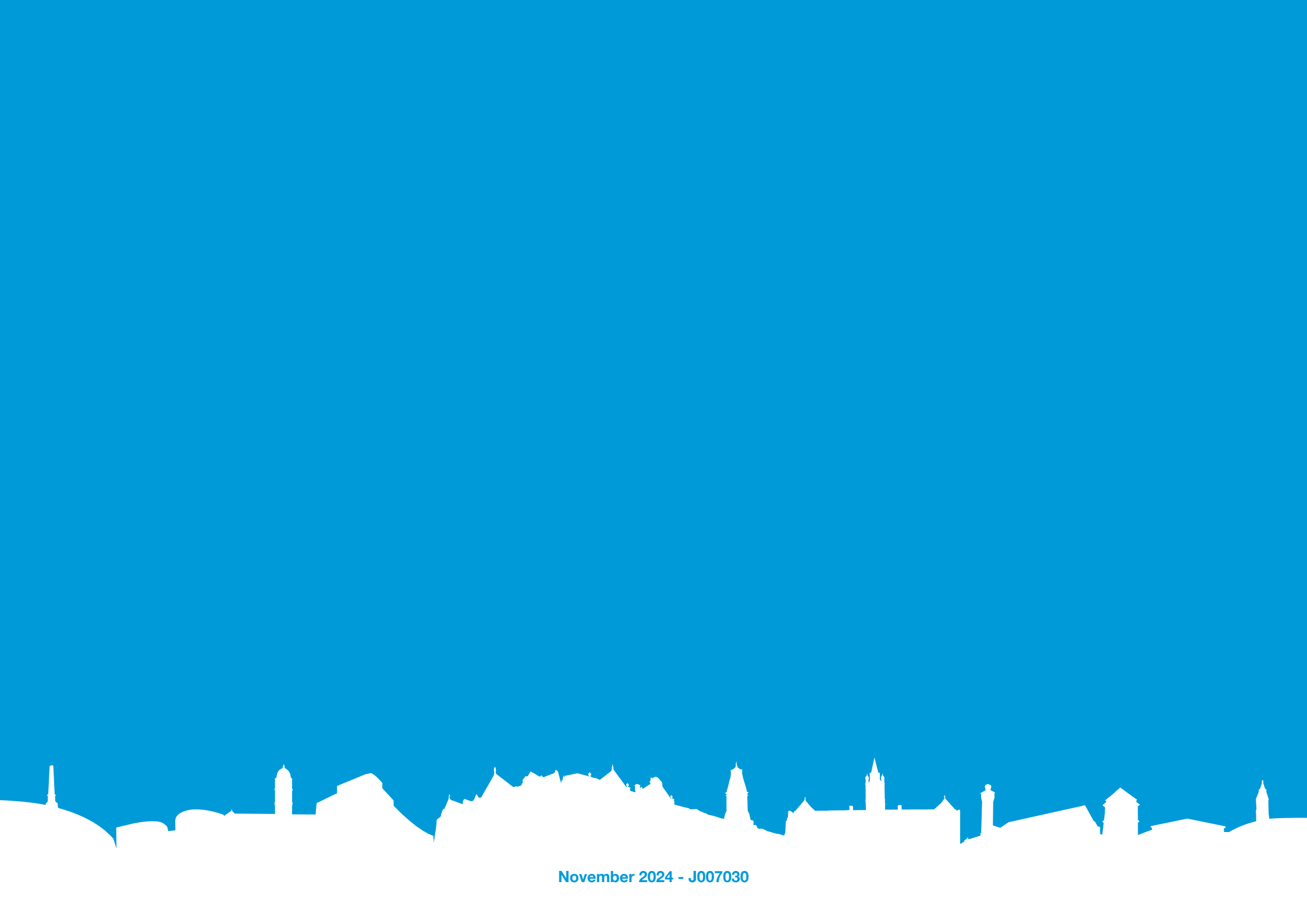
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