

TO: LICENSING AND SAFETY COMMITTEE
12 JUNE 2014

ENFORCEMENT POLICY
Chief Officer: Environment and Public Protection

1 PURPOSE OF REPORT

- 1.1 The nature of the Environment & Public Protection Division's work is such that it must have in place an Enforcement Policy that sets out the procedure that will be adopted when seeking regulatory compliance.
- 1.2 The provisions of the Regulatory Enforcement and Sanctions Act 2008 and the Regulators' Compliance Code are statutory guidance and apply to Trading Standards, Environmental Health and Licensing. The Enforcement Policy is also applied to other services within the Division as 'good practice' so as to ensure consistency and transparency in decision making and enforcement.
- 1.3 Our current Enforcement Policy was adopted by the Executive in June 2012 but it now requires updating following the issue of the Regulators Code of 6th April 2014. A revised Enforcement Policy is attached as Annex A.
- 1.4 Where there are significant changes to the 2012 policy these have been highlighted in italics. In some cases the changes are necessary to clearly highlight the legislative framework within which we must operate and with others they are about being more open and transparent to those impacted upon our approach when dealing with non compliance.

2 RECOMMENDATION

- 2.1 **That the Licensing and Safety Committee comments upon the draft Enforcement Policy.**

3 REASONS FOR RECOMMENDATION

- 3.1 The Policy has been reviewed by officers in light of changes to the legislative framework and must be submitted for final approval by the Executive. The Licensing and Safety Committee has responsibility for a number of functions which will be covered by this policy.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5 SUPPORTING INFORMATION

- 5.1 The current Policy was adopted in June 2012. With the introduction of the Regulators Code in April 2014 six new general principles were introduced which require that the existing policy be reviewed and redrafted.
- 5.2 The six principles of the Regulators Code are:
 - 1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
 3. Regulators should base regulatory activities on risk.
 4. Regulators should share information about compliance and risk.
 5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
 6. Regulators should ensure that their approach to their regulatory activities is transparent.
- 5.3 The regulatory function of the Public Protection and Environment Division makes a major contribution to protecting public health, the environment and our general quality of life. The Council is responsible for ensuring food, goods and services are sold in a safe and fair manner, that the air and our environment is clean and that the Borough is a safe place to live and work in. Regulatory Services also play a key role in helping to ensure an equitable and vibrant business economy by protecting and supporting good business and enforcing against rogue businesses. The service is a source of information and impartial advice for businesses to assist them to grow and develop their business.
- 5.4 The Environment and Public Protection Enforcement Policy takes into account the above principles together with the principle of Good Regulation which requires enforcement to be
- (i) Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,
 - (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
 - (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities,
 - (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
 - (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.
- These principles are built into our work plan to focus us upon those areas of highest risk, whilst providing accountable, consistent and transparent support to local people and businesses and targeting those for whom non compliance is treated as a business risk and not an essential element of a legitimate and successful business.
- 5.5 The Policy sets out in a transparent manner for the benefit of businesses, consumers and victims, the framework for decision-making when evidence of non-compliance with legislative provisions is found. The Policy lays down the principles that will be applied and the matters that will be taken into consideration when dealing with any enforcement matter.
- 5.6 The Council has entered into Primary Authority Partnerships with some of the

Borough's major companies and provides professional advice for a fee. The businesses benefit from the arrangement safe in the knowledge that the Council's expert opinion applies across the United Kingdom as a secure base for business investment and operational decisions. The Council also engages with many small and medium size businesses and has always sought to 'encourage' rather than 'enforce' to achieve compliance with the law. An example of this approach is the promotion of businesses which are perceived by the Council through our inspection and auditing work to be excellent and this is delivered through such initiatives as the 'Food Hygiene Rating Scheme' and 'Buy with Confidence'.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The relevant legal provisions are contained within the main body of the report and Policy.

Borough Treasurer

- 6.2 There are no financial implications arising from the recommendation in this report.

Equalities Impact Assessment

- 6.3 The Policy seeks to ensure that any enforcement action is appropriate to the circumstances and that decisions are taken in a fair, equitable and consistent manner. An Equalities Impact Assessment has been undertaken.

Strategic Risk Management Issues

- 6.4 The Council is put at risk if decisions in relation to enforcement action are taken without due consideration of the legislative framework. A properly considered and presented Enforcement Policy reduces that risk significantly.

Background Papers

Regulators Code
Code for Crown Prosecutors
Human Rights Act

Contacts for further information

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