

**TO: ENVIRONMENT, CULTURE & COMMUNITIES OVERVIEW & SCRUTINY PANEL
23 SEPTEMBER 2014**

**ENFORCEMENT POLICY (REGULATORY SERVICES)
Director of Environment, Culture and Communities**

1 PURPOSE OF REPORT

- 1.1 The nature of the Environment & Public Protection Division's work is such that it must have an Enforcement Policy for most of its regulatory functions. The Policy must set out the procedure that will be adopted when seeking regulatory compliance. Our current policy was adopted by the Executive in June 2012. It now requires updating following the issue of the Regulators Code on 6 April 2014. This report seeks approval for a revised Enforcement Policy for the purposes of consultation.
- 1.2 The draft policy has already been considered by the Licensing and Safety Committee and the Environment Portfolio Review Group. Comments have been fed into the draft and the version attached is due to be considered by the Executive at its meeting of 23 September. Any comments from this Panel will be fed into the feedback arising from consultation and taken into account prior to formal adoption.

2 RECOMMENDATION

- 2.1 **That the Panel considers the draft Enforcement Policy (Annex A) as part of the consultation process prior to its formal adoption.**

3 REASONS FOR RECOMMENDATION

- 3.1 The Policy has been reviewed by officers in light of changes to the legislative framework.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5 SUPPORTING INFORMATION

- 5.1 The provisions of the Regulatory Enforcement and Sanctions Act 2008 and the Regulators' Compliance Code give mandatory guidance to be applied to Trading Standards, Environmental Health and Licensing matters. That guidance has been incorporated into an Enforcement Policy and whilst not mandatory to do so the principles within the Policy are also applied to other services within the Division as far as possible as it represents 'good practice'. The application of the Policy helps ensure consistency and transparency in decision making and enforcement.
- 5.2 Where there are significant changes by way of additions to the 2012 policy these have been highlighted in the paragraphs in italics. The consequences of these additions have resulted in some deletions that are necessary just to ensure readability. In some cases the changes are simply necessary to highlight the

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legislative framework within which we must operate. Other changes have been made to ensure we are as transparent as possible in how we deal with matters of non compliance. In practice the changes make little operational impact as the words only tend to reinforce what was already operational practice.

- 5.3 The regulatory function within 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. The Division also plays 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 current Policy was adopted in June 2012. In April 2014 the Government published the Regulators Code which introduced six new general principles that need to be incorporated into the existing policy.
- 5.5 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.
- 5.6 The proposed revised Policy takes into account these principles. It also incorporates the also newly published Principles of Good Regulation. These require 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 Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

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- 5.7 The application of such Principles supports an approach which focuses upon those areas of highest risk, whilst providing accountable, consistent and transparent support to local people and businesses. We therefore specifically target those for whom non compliance is treated as a “business risk” and not an essential element of a legitimate and successful business.
- 5.8 The proposed Policy with these inclusions and other minor amendments 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 makes clear the principles that will be applied and the matters that will be taken into consideration when dealing with any enforcement matter.
- 5.9 Subject to the views of the Executive the proposal is to consult using the Council’s Consultations and Engagement portal for a period of 8 weeks.

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.

7 CONSULTATION

Principal Groups Consulted

- 7.1 Not applicable. The works proposed reflect actual conditions.

Method of Consultation

- 7.2 Not applicable.

Representations Received

- 7.3 Not applicable.

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Background Papers

Regulators Code
Code for Crown Prosecutors
Human Rights Act

Contacts for further information

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