

Committee:	Executive	Agenda Item No.:	12
Date:	10 June 2013	Status	Open
Category	2. Decision within the functions of Executive		
Subject:	Corporate Enforcement Policy		
Report by:	Principal Solicitor		
Other Officers Involved	N/A		
Director	Director of Neighbourhoods		
Relevant Portfolio Holder	Portfolio Member for the Environment		

RELEVANT CORPORATE AIMS

COMMUNITY SAFETY – Ensuring that communities are safe and secure
CUSTOMER FOCUSED SERVICES – Providing excellent customer focused services

ENVIRONMENT – Promoting and enhancing a clean and sustainable environment
STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation.

Clear and concise principles for enforcement will allow the Council to continue to promote the above Aims and provide subject and complainants with clarity on how those Aims will be achieved.

TARGETS

N/A

VALUE FOR MONEY

N/A

THE REPORT

In February 2008 the Council produced, through the Patch Management Group, a Corporate Enforcement Policy setting out the basic principles which underpin the enforcement work carried out by a number of departments. This is one of a suite of policies that the group has produced which cover a range of environmental and enforcement issues

In accordance with established procedure, the policy has now been reviewed.

Since the original version of the policy, there has been national guidance and principles issued to local authorities, i.e. the Regulators Compliance Code and the Enforcement Concordat.

Accordingly the policy has now been revised to incorporate the principles set out in the Compliance Code and processes have been checked to ensure they align with the Enforcement Concordat.

The principles adopted from the Code can be found in Part 3 of the policy and relate to:

- Economic progress
- Risk Assessment
- Advice and guidance
- Inspections and other visits
- Information requirements
- Compliance and enforcement actions
- Accountability

Part 4 of the policy has been subject to some minor amendments to align with the above guidance, but remains largely unchanged from the original policy.

ISSUES FOR CONSIDERATION

Executive are asked to approve the revised policy.

IMPLICATIONS

Financial: NONE
Legal: Requirement to carry out enforcement in accordance with statutory guidance
Human Resources: NONE

RECOMMENDATION(S)

That the revised Corporate Enforcement Policy be approved.

REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION

To ensure an up-to-date and legally sound set of principles to allow effective enforcement activity to be taken.

ATTACHMENTS: Y
FILE REFERENCE:
SOURCE DOCUMENT:

DRAFT

Corporate Enforcement Policy

December 2012



**CONTROL SHEET FOR STATEMENT OF LICENSING POLICY: HACKNEY
CARRIAGES, PRIVATE HIRE DRIVERS, VEHICLES AND OPERATORS**

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Corporate Enforcement Policy
Current status - i.e. first draft, version 2 or final version	Version 2.0
Policy author	Principal Solicitor
Location of policy - i.e. L-drive, shared drive	
Member route for approval	Executive
Cabinet Member (if applicable)	Cabinet Member for the Environment
Equality Impact Assessment approval date	19 November 2012
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council /Planning Committee	Executive
Date policy approved	
Date policy due for review (maximum three years)	January 2016
Date policy forwarded to Strategy and Performance (to include on Intranet and Internet if applicable to the public)	

POLICY

1. Introduction

Bolsover District Council recognises the value for all parties of having a published document detailing how its enforcement activity will be carried out. In producing this policy the Council acknowledges that the majority of its citizens and businesses act in a law-abiding manner. However, there are those who do not. The purpose of local government enforcement is to protect the public, the environment and the wider community from those who do not act in a law abiding manner by securing compliance with the law.

How the Council seeks to achieve its aims is defined by the following principles: -

- Listening to and responding to the needs of people
- Accepting responsibility for and explaining our decisions
- Taking decisions in the public interest
- Ensuring that everyone is treated equally and with dignity
- Being fair in dealing with people and making decisions
- Behaving with integrity
- Telling people about what the Council does
- Minimising the adverse affect of our actions

2. Scope

The Council is committed to the central and local government Concordat on Good Enforcement Practice and the Regulators Compliance Code. This means that the enforcement services will carry out their duties in an equitable, practical and consistent manner, whilst working to secure a safe and healthy environment for all. This policy explains the approach that officers will take when carrying out the Council's duties. The Council services covered by this policy are listed below:

Community Services e.g. CAN Rangers

Environmental Health Services e.g. Pollution Control, monitoring of food premises

Legal Services e.g. prosecution through the Court system

Planning Services e.g. Development Control, Breach of planning condition

Housing e.g. Rents, Tenancy Agreement

Additional areas may fall within the scope of this policy. There are a few exceptions from the scope of this policy including Council tax and benefits.

3. Principles

The Regulator's Compliance Code (statutory code of practice for Regulators) sets out a number of specific obligations, which underpin the principles of this Policy, in relation to:

- Economic progress
- Risk Assessment
- Advice and guidance
- Inspections and other visits
- Information requirements
- Compliance and enforcement actions
- Accountability

Economic progress

We seek to emphasise where compliance will help promote economic progress and to ensure enforcement is targeted appropriately to prevent unnecessary hindrance to economic progress.

Risk assessment

Our regulatory activities will be risk-based, on evidence about which individuals, businesses, areas and activities require the focus of enforcement activity. We will use this evidence to target areas of highest risk for enforcement.

Advice and Guidance

We focus on providing advice and guidance that is clear and concise, to ensure maximum effectiveness for individuals and businesses and encourage compliance in the first instance.

Inspections and other visits

The Council will pursue initiatives to ensure a joined-up approach between departments and with other enforcing authorities, to reduce the impact of visits and inspections on individuals' private lives and the productivity of local business.

Information requirements

Information-sharing between departments and with other enforcing authorities, subject to restrictions under Data Protection legislation, will ensure as far as possible that those subject to enforcement are dealt with in a coordinated manner. The authority will employ best practice to accomplish this, e.g. regular meetings between enforcement officers of all departments to share information and knowledge.

Compliance and enforcement actions

We have developed tools and policies which encourage a consistent and proportionate approach to enforcement.

Accountability

Bolsover District Council is a responsible and accountable regulatory body. We review regulation after it has been implemented and assess the outcomes to constantly improve our service.

Enforcement decisions will be based on the following principles:

- Taking decisions in the public interest
- Ensuring that everyone is treated equally, fairly and with dignity
- Behaving with integrity
- Explaining about what the Council does and why decisions are taken
- Minimising the adverse affect of our actions on individuals and businesses

4. Statement of Policy

To achieve the above principles the Council will endeavour to:

- Provide information on regulations and enforcement practice in plain language or alternate formats to ensure that enforcement action to be taken by the Council can be clearly understood.
- Discuss compliance failures, or problems, with anyone experiencing difficulties, making clear distinctions between best practice advice and legal requirements.
- Provide a courteous and efficient service. Staff will identify themselves by name and will provide a contact telephone number to encourage further discussions or to seek advice/information.
- Ensure that decisions to take enforcement action are not influenced by race, age, gender, disability, sexual identity, national origin, sexual orientation, religion or belief, geographical or any other status.
- Encourage regularisation, taking enforcement action only where it is justified and clearly stating the reasons for doing so. The level of action will usually be the minimum required to achieve a satisfactory resolution subject to public interest considerations.
- Take enforcement action on an incremental scale, from informal action to criminal prosecution, depending on the seriousness of any breach of legislation. Exceptions may be made in certain circumstances, e.g. where there is a deliberate and wilful failure to cooperate with the Council.
- Ensure that our duties are carried out in a fair and even-handed way. Regard will be had to the rights contained within the

Human Rights Act 1998 when enforcement action is considered to ensure that action taken is both necessary and proportionate.

- Employ means of best practice to ensure the regulatory burden is minimised and enforcement action is coordinated between departments, e.g. by maintaining a corporate enforcement officers group for the sharing of information, case updates and best practice.

Procedures for taking enforcement action

Where a breach of legislation is identified the initial approach will usually (but not exclusively) be to take informal action. This may include giving a verbal or written warning and will generally be followed up by further checks to ensure that the necessary action has been taken. In many cases this will be sufficient to resolve the breach.

Where informal advice or warnings are ignored or where there is evidence of intent, negligence, significant public concern and/or impact on quality of life, health or safety, then formal action will be pursued. Formal action includes the service of statutory notices, prosecution or injunction or the issue of fixed penalty notices. However, before formal action is taken, officers will usually provide an opportunity to discuss the case and, if possible, resolve points of difference unless immediate action is required (e.g. in the interest of health and safety, environmental protection or to prevent evidence being destroyed).

Some legislation provides for the service of statutory notices which require the recipient to take specific steps to remedy identified breaches. Generally these notices will explain what is wrong; what is required to put things right; the timescale in which to put things right and what will happen if the notice is not complied with. Where there are rights of appeal against a formal notice an explanation of the method of appeal will be clearly set out in writing at the time the notice is issued.

Where a formal or statutory notice is not complied with the Council may prosecute those responsible for non compliance. In addition, failure to carry out specified work may result in the Council carrying out the works in default and recovering all of its costs from those failing to comply.

The Council aims for a consistent and uniform approach to prosecution, having due regard to the deterrent effect of a prosecution and the need to deal with offences in a proportionate way. However within this general framework the Council will judge each case on its merits and tailor enforcement action accordingly.

The Council undertakes enforcement action on behalf of all the residents of the District and not just in the interests of any particular individual or group.

The decision whether or not and how to take enforcement action will include consideration of the consequences for those affected by the offence and any views they have expressed.

Joint Working

Where the Council engages in joint working with other public organisations which includes enforcement, or where those functions are carried out by another organisation on the Council's behalf, any enforcement under those arrangements will be carried out in accordance with this Policy at all times.

Maintaining the quality of our enforcement service

The Council is committed to ensuring that the highest practicable standards are achieved and that good customer care practice is integrated into all aspects of the service. It will do this by ensuring that all employees who are likely to deal with enforcement action are appropriately trained in order to maintain high standards of competence and professionalism in their field.

5. Responsibility for Implementation

Each service area will have its own procedures and protocols that support this Policy and these should be read in conjunction with this document. The principles in this corporate policy apply to all enforcement service areas but do not override the specific provisions within individual service policies, which have been developed with the statutory purpose of that service in mind.