

Bolsover District Council

Executive

11th July 2016

Enforcement Policy (Joint Environmental Health Service) May 2016

Report of the Portfolio Member for Health and Wellbeing

This report is public

1. Purpose of the report

- 1.1. To recommend for approval a revised Enforcement Policy for the Joint Environmental Health Service which updates the Councils existing Statement of Enforcement Policy (2007)
- 1.2. This revision is required by The Regulators' Code which was made under the Legislative and Regulatory Reform Act 2016. The Code aims to reduce regulatory burdens and encourages regulators to provide support to compliant business and growth through an open and constructive relationship between regulators and those they regulate. The Council must have regard to this Code when developing policies and operational procedures.
- 1.3. The primary purpose of environmental health is to protect public health and the Code does not detract from this core purpose but seeks to promote proportionate, open, consistent and targeted regulatory activity.

2. Report Details

- 2.1. The Policy has been developed from the existing Statement of Enforcement Policies in place for both Bolsover and North East Derbyshire District Councils.
- 2.2. It details the enforcement principles used by the Councils in determining when enforcement action will be taken. The action may be against commercial businesses or an individual member of the public.
- 2.3. The Policy outlines the main government guidance which is followed in arriving at a decision. It also provides an outline of the possible enforcement options available to the Councils. Most of the content is legal guidance that has to be included, since environmental health have law enforcement powers and as such in executing those duties they must follow the same processes as the Police, e.g. when collating evidence and interviewing offenders under caution.
- 2.4. The Policy covers all the regulatory services in environmental health such as food hygiene and health and safety, housing and pollution, licensing and environmental enforcement and outlines the hierarchy of options available to Officers ranging from advice and guidance, statutory notices, fixed penalty notices, revocation of licences right through to prosecution. As a general rule and where there are options, the

level of enforcement is expected to be the minimum necessary to achieve a satisfactory solution subject to public interest considerations.

- 2.5. The Policy explains the evidential test and the public interest test and how all evidence has to satisfy these tests and how enforcement actions are determined.
- 2.6. The Policy meets a service plan target for environmental health and has been developed following wide consultation with internal and external stakeholders and with the relevant Elected Member.
- 2.7. The main changes to the policy are:
 - Inclusion of the requirements of The Regulators' Code (see section 4.7 part B)
 - Changes to formatting and number referencing (to allow for better navigation of the document)
 - An updated equalities statement, contents page and scope
 - Corporate Plan aim update
- 2.8. When preparing the Enforcement Policy the following information was considered:
 - Government law and guidance.
 - Council's Corporate Plan 2015-19
 - Responses from the consultation with all stakeholders
 - Comments from Scrutiny Committee
 - Comments from Strategic Alliance Management Team
 - Regional and national best practice

3. Consultation and Equality Impact

- 3.1. An extensive internal and external consultation exercise has been undertaken and the Policy has been developed in conjunction with relevant managers and staff. It has been considered by the relevant Scrutiny Committee, Strategic Alliance Management Team and Cabinet Member for Health and Wellbeing. All responses have been considered and included in the final document where appropriate.
- 3.2. An Equality Impact Assessment has been completed for the Policy and the Policy sets out the approach that the Council will take to deal with enforcement in line with the Council's Equality Scheme.

4. Alternative Options and Reasons for Rejection

- 4.1. There are no other options to consider as the Councils must have in place an enforcement policy for the environmental health service to outline the approach that will be taken in the delivery of its regulatory role.

5. Implications

5.1 Finance and Risk Implications

The Policy aims to provide a framework to ensure expectations can be managed and effectively delivered where appropriate and in line with our statutory duties.

Without such a policy the Council could be open to the risk of formal complaints, legal challenge and ombudsman intervention

5.2 **Legal Implications including Data Protection**

None arising from this report.

5.3 **Human Resources Implications**

None arising from this report.

6. **Recommendations**

7. That Executive approves the Enforcement Policy (Joint Environmental Health Service) May 2016.

Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	Supports the Councils Corporate aim of supporting our communities to be healthier, safer, cleaner and greener (July 2015)

Document Information

Appendix No	Title
Appendix 1	Enforcement Policy (Joint Environmental Health Service) May 2016.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
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