

Bolsover District Council

Executive

5th November 2018

Joint Corporate Enforcement Policy

**Report of Councillor H Gilmour, Portfolio Holder for Housing
and Community Safety**

This report is public

Purpose of the Report

- To agree to the Joint Corporate Enforcement Policy which will set overarching principles for enforcement activities across both Bolsover District Council and North East Derbyshire District Council.

1 Report Details

- 1.1 Bolsover District Council is responsible for ensuring that a wide range of legislation is being properly complied with, by businesses and individuals to protect the rights and safety of the District's residents, workers, visitors and local environment. Individual service areas are required to follow a range of legislation and regulations when considering enforcement activity and as such, many of these areas have specific enforcement policies in place. These are reviewed regularly to ensure that they reflect the most recent legislative requirements.
- 1.2 Whilst there are service specific enforcement policies, it is considered that an overarching Corporate Enforcement Policy which sets out the broad principles to be adopted by all departments and officers when exercising any enforcement functions on behalf of both Councils, is good practice. It will ensure that both Councils ensure fairness, openness, and consistency in the enforcement action it takes.
- 1.3 Bolsover District Council last reviewed the Corporate Enforcement Policy in June 2013. This was a review of the 2008 policy which was written in accordance with the Enforcement Concordat. This has since been superseded, first by the Regulators' Compliance Code, and more recently by the Regulators' Code.
- 1.4 The Legislative and Regulatory Reform Act (2006) requires Local Authorities to have regard to the principles of good regulation when exercising a specified regulatory function. The principles provide that regulatory activities should be

carried out in a way that is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.

- 1.5 A Regulators Code came into force in April 2014. As a regulatory body, the Council is under a duty to have regard to the Code when developing policies and the operational procedures that guide their regulatory activities.
- 1.6 The proposed policy, attached at Appendix 1 to this report, creates one single, Joint Corporate Enforcement Policy and brings it in-line with current requirements. The intention of the Policy is to ensure that any enforcement action is compliant with the relevant legislation, codes of practice and government guidance. Also it must be transparent and accountable, proportionate, targeted, consistent in approach and appropriate.
- 1.7 The proposed Policy is designed to make sure that everyone knows the main principles that both Councils apply when carrying out enforcement work. It starts from the premise that most businesses and individuals want to comply with the law. Help and support will be provided to enable them to meet their legal obligations without unnecessary expenses, while firm action will be taken against those who flout the law or act irresponsibly.
- 1.8 This policy sets out the approach to be followed by authorised officers when making decisions in respect of compliance and enforcement activities. It sets out the levels of enforcement action available to the Councils, how we will determine which action is appropriate in the event of non-compliance and how we will conduct our investigations.
- 1.9 The diversity of regulatory powers makes it difficult to provide detailed processes in this policy. Often there are detailed and differing processes that need to be followed depending on the service. For this reason, whilst the policy sets out principles that will be followed, and more detail is contained in service specific policies which will be referenced into the policy by way of a web link. This list of policies will be reviewed and updated annually and any review of specific policies, or creation of new policies will have regard to the Corporate Enforcement Policy.

2 Conclusions and Reasons for Recommendation

- 2.1 To ensure legal compliance and to ensure that enforcement action taken by Bolsover District Council is better able to resist a challenge in the courts. The policy will also ensure all departments follow the same principles when carrying out enforcement action.

3 Consultation and Equality Impact

- 3.1 The draft Corporate Enforcement Policy has been developed in consultation with all service areas of both Councils involved in regulatory work.
- 3.2 The Policy has been considered by Healthy, Safe Clean and Green Scrutiny Committee at Bolsover District Council. The Policy was put before the Strategic Alliance Joint Committee on 9th October 2018 where it agreed it its current form.
- 3.3 An Equality Impact Assessment has been completed in consultation with the Improvement Teams at both Councils, which concluded that there were no adverse impacts arising from this policy.

4 Alternative Options and Reasons for Rejection

- 4.2 To do nothing and retain the previous published Corporate Enforcement Policy dated 2013 for Bolsover District Council is contrary to current regulatory requirements and statutory guidance.

5 Implications

- 5.1 The Council is under a duty to have regard to the Regulators' Code when exercising its regulatory powers, setting standards or giving general advice.

5.1 Finance and Risk Implications

- 5.1.1 There are no financial implications associated with the recommendation.

5.2 Legal Implications including Data Protection

- 5.2.1 The preparation and publishing of the policy is not in itself a legal requirement. However, the Regulators' Compliance Code, issued in accordance with section 22 of the Legislative and Regulatory Reform Act 2006, requires regulators to have regard to this Code. The code came into statutory effect on 6 April 2014. The adoption of a policy is considered to be best working practice and will assist the both Councils to demonstrate that it has regard to the Code.

5.3 Human Resources Implications

- 5.3.1 There are no human resource implications associated with the recommendation.

6 Recommendation

- 6.1 That the Executive approves and adopts the Joint Corporate Enforcement Policy.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed</p>	Yes
<p>District Wards Affected</p>	All indirectly
<p>Links to Corporate Plan priorities or Policy Framework</p>	All

8 Document Information

Appendix No	Title
1	Draft Joint Corporate Enforcement Policy
<p>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)</p>	
Equality Impact Assessment	
Report Author	Contact Number
Victoria Dawson, Solicitor (Contentious Team Manager)	01246 242231