

Report to the Cabinet

Report reference: C-030-2009/10
Date of meeting: 7 September 2009



Portfolio: Environment

Subject: Environment and Street Scene Directorate Enforcement Policy and Guide

Responsible Officer: John Gilbert (01992 564062).
Jim Nolan (01992 564083).

Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

That the updated version of the Environment and Street Scene Directorate Enforcement Policy and new Guide be approved and adopted.

Executive Summary:

From time to time the Council is required to revise and update its policies. On this occasion, whilst revising the Environment & Street Scene Directorate enforcement policy it was felt that in addition to the main policy document a shorter, easier to understand guide should also be produced.

The policy, with minor amendments, has been endorsed by the Safer, Cleaner, Greener Scrutiny Standing Panel and the Overview and Scrutiny Committee earlier in the year. The policy sets out how the Directorate will undertake its enforcement role and in particular how officers will deal with those in the community when enforcement activities are undertaken. It is important that this policy is updated, ahead of the new Environment & Neighbourhoods Team completing their Essex Police accreditation training and commencing their work out in the District.

This is a key decision.

“A safe, healthy & attractive place” – “create safer communities”

“maintain the special character and advantage of the District, and address local environmental issues”

Council Plan 2006-2010 “Homes & Neighbourhoods” – “We want to continue to improve local environmental standards through the use of locally based cleansing teams and the new enforcement powers available to local authorities” (Action HN6)’

Reasons for Proposed Decision:

In order to keep the Directorate’s policy up to date and to ensure that all who interact with the Directorate during enforcement activities are fully aware of what to expect from its officers and to be satisfied that they will be treated fairly and proportionately.

The shorter guide is intended more for the general public.

Other Options for Action:

Not to adopt the policy and guide. This course of action would leave the Council open to criticism. We are already a signatory to the Government Cabinet Office Enforcement Concordat which requires that we demonstrate openness and fairness in our approach to enforcement.

Report:

1. As part of the Council's commitment to fair and equitable enforcement activity, an enforcement policy for environmental health was developed and put into practice. The policy was written in accordance with the Government's Cabinet Office Enforcement Concordat, published by the Cabinet Office in 1998 and adopted by this Council.

2. The policy is based on the principle that those in the community who find themselves dealing with receipt of Council Environmental Health services should:

- (a) receive clear explanations from enforcing officers of what they need to do and by when;
- (b) have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed; and
- (c) receive an explanation of their rights of appeal in the event of enforcement action being taken.

3. Since the publication of that original enforcement policy the Government has published the Hampton Review – “Reducing Administrative Burdens: Effective Inspection and Enforcement” in March 2005 and the Rogers Review of “National Enforcement Priorities for Local Authority Regulatory Services” in March 2007. As a consequence it was necessary to review and update that policy to reflect those reviews, minor legislative amendments, the Council’s restructure and the adoption of the “Safer, Cleaner, Greener” initiative.

4. The new policy, which is attached, sets out exactly what can be expected in the event that the Directorate finds it necessary to embark upon any form of enforcement action against an individual or organisation. It is based around the five key principles of the Enforcement Concordat, namely:

- (a) openness – plain advice, be available to explain etc;
- (b) helpfulness – to assist people to comply with the law rather than wait for them to break it and then enforce;
- (c) dealing with complaints – having a clear published complaints procedure;
- (d) proportionality – that the level of enforcement envisaged accords with the seriousness and nature of the offence allegedly committed; and
- (e) consistency – being fair and even handed to all, and training officers accordingly.

5. The main policy is a complex document although every effort has been made to use plain English and ensure that it is easy to read and understandable. Nevertheless, it is more appropriate for local businesses and organisations which should already be familiar with the enforcement roles of local authorities. Therefore, a smaller more general purpose guide has also been produced which sets out the core principles without all the detailed accompanying

policy statements. This should enable anyone with an interest in how the Directorate uses its enforcement powers being able to understand the basic concepts which are applied. This is also attached to the agenda.

Resource Implications:

There are no budgetary implications for the production and publication of the policy and short guide, all costs are contained within current budgets

Legal and Governance Implications:

The adoption of the revised policy will ensure that enforcement activities within the Environment & Street Scene Directorate are fair and consistent and meet the principles of the Enforcement Concordat. This is particularly important ahead of the possible introduction of the use of fixed penalty notices and increased enforcement activity arising from the Safer, Cleaner, Greener initiative and the new Environment & Neighbourhoods enforcement team.

There are other Directorates within the Council which undertake enforcement activities. Directors will, over a period of time, be bringing forward reviews of their Directorate enforcement policies, including the overarching corporate enforcement policy.

Safer, Cleaner and Greener Implications:

Intrinsic element of the Safer, Cleaner, Greener initiative.

Consultation Undertaken:

Safer, Cleaner, Greener Standing Scrutiny Panel
Overview and Scrutiny Committee

Background Papers:

Reports to the Safer, Cleaner, Greener Standing Scrutiny Panel and Overview and Scrutiny Committee
Enforcement policy and guide.
Government Cabinet Office Enforcement Concordat

Impact Assessments:

The adoption of the enforcement policy will ensure fair and equitable treatment of all those in the community who are subject to enforcement activity by the Environment & Street Scene Directorate. The policy statement will enable business and those with a more specialist interest to understand the detail behind the policy whilst the shorter guide should enable the more lay reader to understand the basic policies.