

Report to the Cabinet



**Epping Forest
District Council**

Report reference : C-009-2018/19
Date of meeting : 6 September 2018

Portfolio: Leader

Subject: Corporate Enforcement Policy

Responsible Officer: Robin Ray (01992 564146).
Democratic Services Officer: Adrian Hendry (01992 564246).

Not a key decision

Recommendation:

That the amended Corporate Enforcement Policy, attached as an Appendix, be adopted.

Executive Summary:

Part of the Council's role is regulatory and we have a duty and a power to take action to enforce a wide range of statutes relating, but not limited, to:

- public health and safety,
- quality of life,
- preservation of public and residential amenity,
- maintenance of the environment and
- protection of public funds.

Following the introduction of the Regulators Code a review has been undertaken of the Council's Corporate Enforcement Policy and amendments made to reflect operational and legislative changes. The opportunity has also been taken to broaden the policy so that it covers the areas common to each area of the Council's regulation in a consistent manner.

The Corporate Enforcement Policy represents the Council's overarching policy relating to enforcement. It does not enter into the specifics of all areas of regulation but, to allow for greater clarification around specific areas of regulation, the Corporate Enforcement Policy will be supplemented by separate Enforcement and Service Standards specific to individual service areas/legislation (each to be approved by the relevant Portfolio Holder).

The Council is committed to ensuring that the district continues to be a great place to live, work, play, study and do business. The policy contributes to the following areas of the Corporate Plan 2018-2023:

- Stronger Communities
 - 1.3 Safeguarding and supporting people in vulnerable situations.
 - 1.6 Keeping the district safe.
- Stronger Place
 - 2.1 Keeping the district clean and green.

- 2.2 Improving the district housing offer.

Reasons for Proposed Decision:

The existing policy was last amended in December 2015. It is important the policy is kept up to date to ensure that it both follows operational changes within the Council and legislative changes that may have come into force.

The policy must remain robust and able to stand up to scrutiny in the case that a member of the public or business makes a complaint relating to the way we have handled their case, or the decision we have made relating to enforcement, and is essential to provide clarity to residents and businesses in how we enforce and minimise the risks associated with failed enforcement action.

Other Options for Action:

The existing policy is not reflective of current best practice and the amendments are required to bring it up to date. Not to approve the amendments leaves the Council at risk for the reasons outlined above.

Report:

1. As noted above the policy has been updated to reflect the changes introduced by the Regulators Code but also extended to ensure that it covers all areas common to our regulatory activity.
2. The policy, which is attached as an Appendix to this report, introduces the Regulators Code and the Principles of good enforcement. These are that any person exercising a regulatory function must carry out their regulatory activities in a way which is:
 - transparent
 - accountable
 - proportionate
 - consistent

and should be targeted only at cases in which action is needed.

3. The policy then sets out specific commitments about the way in which we will conduct our regulatory activity. These are:
 1. We will carry out our enforcement activities in a way that supports those we regulate to comply and grow.
 2. We will provide simple and straightforward ways to engage with those regulated and listen to their views.
 3. We will base our regulatory activities on risk.
 4. We will share information about compliance and risk with other regulators.
 5. We will provide clear information, guidance and advice to help those we regulate meet their responsibilities to comply.
 6. We will ensure that our approach to regulatory activities is transparent.
4. The policy also provides guidance relating to safeguarding in the case of a person who, at the time the offence was committed, was vulnerable (e.g. suffering from significant mental or physical ill health). In these cases the Council will consider

whether formal enforcement action is appropriate having regard to the need to safeguard others and taking into account the public interest.

5. Included within this section, the policy also references our corporate aim of providing a high standard of service which is accessible to all and that we will treat everyone and fairly according to their needs.
6. Although the policy is in the main about how we will treat those we regulate, a section does relate to how we will treat victims and witnesses. We will (where relevant) ensure that victims and witnesses:
 - are free of the burden of decisions relating to the offender;
 - receive timely information and explanation about the progress of their case, and have the opportunity to provide their own information about the case for use in the criminal justice process;
 - are protected in any way necessary;
 - receive compensation when appropriate;
 - receive respect, recognition and support;
 - have their fundamental human rights respected.
7. Enforcement will normally involve observing or investigating the conduct of others; in most cases, Council officers carry out these functions openly. However, there are rare cases where it is necessary for officers to use covert surveillance techniques to undertake a specific investigation. The policy details the use of covert surveillance techniques (regulated by the Regulation of Investigatory Powers Act 2000 (RIPA)). This ensures that the public interest and human rights of individuals are appropriately balanced.
8. Since the policy was last amended the way regulatory authorities gather evidence has changed and the policy has been updated to reflect this with guidance on the use of Closed Circuit Television (CCTV), aerial cameras/drones and body worn cameras.
16. The main body of the report details the various enforcement options available to the Council as a means of regulation. These include:
 - Prevention
 - Approvals, Consents and Licences
 - Informal Action
 - Formal Action
 - Prosecution
 - Restorative Justice
 - Proceeds of Crime
17. It is an expectation of the policy that all officers taking enforcement decisions will:
 - Take this policy as a guide when making their decision.
 - Be suitably trained and qualified so as to ensure that they are fully competent to undertake their enforcement activities.
 - Have the proper powers delegated to them to assist them in carrying out their role. For example, this can include the power to require answers to questions and the power to enter premises.

The Council's Scheme of Delegation specifies the extent to which enforcement powers are delegated and are the responsibility of the Council, Cabinet, Committees, Portfolio Holder or Leader, Regulatory and other Committees and Officers.

18. The policy also covers the circumstances where the matter falls within the remit of another regulator (such as the Police or Health and Safety Executive). In these circumstances officers will attempt to co-ordinate visits and actions with other agencies to achieve the most efficient and effective outcomes and to minimise inconvenience. Wherever possible, in situations where there is a shared enforcement role, the most appropriate authority will, by mutual agreement, carry out the enforcement action. Exchange of information with other enforcement teams within the Council will take place wherever appropriate and liaison undertaken to avoid potential conflicts of interest and to co-ordinate actions.
19. The Policy finally sets out what can be expected from us, how to complain if someone is dissatisfied with the service and how to contact us in the event of query.

Resource Implications:

The policy has no additional resource implications. An up to date policy will reduce enforcement risks and support the potential award of costs for carrying out enforcement work.

Legal and Governance Implications:

Relevant statutory powers, plus any further legal implications arising from the recommendations including Human Rights Act issues.

Safer, Cleaner and Greener Implications:

The strategy document sets out the Council's overarching approach enforcement and having a modern and effective policy will contribute towards the broad aims of the Cleaner, Safer, Greener Strategy to provide a safer district and tackle anti-social behaviour and environmental crimes.

Consultation Undertaken:

The policy has been subject to consultation with internal regulatory services, members, external organisations and public. In the main the responses have been incorporated into the final version.

Background Papers:

None.

Risk Management:

NA.