

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S REPORT TO
COUNCIL**

Date 4th June 2014

1. **REPORT TITLE** Enforcement Policy
- Submitted by:** Nesta Henshaw – Head of Environmental Health Services
- Portfolio:** Communication, Policy & Partnerships
- Ward(s) affected:** All Wards

Purpose of the Report

The current Enforcement Strategy, adopted in 2008, requires updating to reflect current regulatory practices and to broaden the scope of the policy to cover all regulatory functions (except Planning) for which Newcastle under Lyme Borough Council has statutory responsibility.

Recommendations

That Council agrees, with any necessary amendments, to the proposed Enforcement Policy as set out in Appendix A and that the policy is adopted.

Reasons

The proposed policy sets out the Council's approach to regulation across all functions and service areas (except Planning) and explains the principles aimed at securing compliance. The emphasis is on advice and guidance with escalation to informal and formal enforcement sanctions dependent on each individual situation. The policy identifies and explains these sanctions.

1. **Background**

- 1.1 Newcastle under Lyme Borough Council is responsible for the regulation and enforcement of a wide range of legislation covering a broad spectrum of functions and service areas. The current enforcement strategy was written in 2008 and required review, the strategy was underpinned by a number of service specific enforcement policies. In order to provide a consistent approach across the Council, one enforcement policy (attached as Appendix A) to include all regulatory and enforcement matters (except Planning) has been developed.
- 1.2 In addition, the Better Regulation Delivery Office (BRDO) has published a 'Regulators Code' which came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006, replacing the Regulators' Compliance Code. The new code provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate, particularly when business is involved, a copy has been provided in the Members room. Those regulators detailed under section 21 and 22 of the Legislative and Regulatory Reform Act 2006 are required to comply with the regulators code. This includes Environmental Health, Housing, Licensing, Streetscene, Waste, Anti Social Behaviour and Public Health work. The enforcement policy encompasses the requirements of the Regulators Code.

2. **Issues**

- 2.1 The proposed policy sets out the Council's approach to regulation across all functions and service areas (except Planning) and explains the principles aimed at securing compliance. The emphasis is on advice and guidance with escalation to informal and formal enforcement sanctions dependent on each individual situation. The policy identifies and explains these sanctions.
- 2.2 It is recognised that achieving compliance at any cost is not acceptable. However, effective regulation promotes economic growth and prosperity and protects individuals, the community and the environment from harm. The revised policy recognises that this is achieved more effectively through cooperation with the community, individuals and forging closer links between regulators and businesses. It emphasises the need to target regulatory activity and resources away from those who are considered largely compliant towards those who give rise to the highest risk and cause the greatest detriment and harm.
- 2.3 The revised policy addresses the principle that individuals as well as businesses have a duty to comply with legislation.
- 2.4 It is accepted that on rare occasions the Council may need to deviate from the proposed policy. Where this is the case, it must be clearly justified, authorised by the Chief Executive or Executive Director and fully documented.
- 2.5 The policy scope does not extend to Planning as this does not align with the priority of proactive development management or with current National Planning Practice Guidance.

3. **Proposal**

That Council agrees, with any necessary amendments, to the proposed Enforcement Policy as set out in Appendix A and that the policy is adopted.

4. **Reasons for Preferred Solution**

- 4.1 The reasons for the preferred solution are:
- The existing enforcement strategy required updating to include additional enforcement tools and powers.
 - The publication of the regulators code, the requirements of which have to be considered by the Council for regulatory services.
 - The desire for enforcement matters to be considered in a consistent and co-ordinated approach across the Council.
 - The approach supports better regulation for businesses.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 5.1 The proposals relate to the adoption of a consistent and effective enforcement policy which would contribute to the following:
- A clean, safe and sustainable borough
 - The negative impacts that the Council, residents and local businesses have on the environment will have reduced.
 - A borough of opportunity
 - Fair, proportionate and consistent enforcement creates an equal opportunity for business to thrive.
 - A healthy and active community

- Fair, proportionate and consistent enforcement creates an environment for prevention, maintenance or improvement in health and well being.
- A co-operative Council delivering high quality, community driven, services.
- High performing services will be delivered for all residents, businesses and customers.
 - Comments and consultation on the policy are welcomed throughout the duration of the policy.

6. **Legal and Statutory Implications**

- 6.1 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 Council to demonstrate that it has regard to the Code.

7. **Equality Impact Assessment**

- 7.1 An Equalities Impact Assessment has not been undertaken as the proposed policy is a revision of a policy that was previously adopted by Newcastle under Lyme Borough Council. It will replace other service area policies if fully adopted. The proposed policy is consistent with national guidance on regulation.

8. **Financial and Resource Implications**

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

9. **Major Risks**

- 9.1 A risk assessment has been undertaken and is available upon request.

10. **Key Decision Information**

- 10.1 Agreeing to the enforcement policy is a key decision as it will affect all wards within the Borough.

11. **Earlier Council Resolutions**

- 11.1 The Council meeting on 24th September 2008 considered and approved the Corporate Enforcement Strategy 2008. Minute number 277.

12. **List of Appendices**

Appendix A – Enforcement Policy

Appendix B – Available in members room & on following link [Regulators Code](#)