

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

CORPORATE LEADESHIPS TEAM'S

REPORT TO CABINET

6 February 2024

Report Title: Corporate Enforcement Policy 2024

Submitted by: Service Director – Regulatory Services

Portfolios: One Council, People and Partnerships, Finance, Town Centres and Growth, Community Safety and Wellbeing, Sustainable Environment.

Ward(s) affected: All Wards

<u>Purpose of the Report</u>	<u>Key Decision</u> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
<p><u>Purpose of the Report</u></p> <p>The current Corporate Enforcement Policy requires updating to reflect current regulatory practices for which Newcastle under Lyme Borough Council has statutory responsibility. It should be noted that there is a separate local planning enforcement policy [Reference: https://www.newcastle-staffs.gov.uk/policies-1/local-planning-enforcement-plan]</p>	
<p><u>Recommendations</u></p> <p>That Cabinet approves the Corporate Enforcement Policy 2024 for the Borough as attached at Appendix A to this report.</p> <p>That the Cabinet agrees to the Enforcement Policy 2024 being presented to Council for formal approval and adoption.</p>	
<p><u>Reasons</u></p> <p>The proposed policy sets out the Council's approach to regulation and enforcement 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.</p>	

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 policy was written in 2018 and requires review. The policy includes all regulatory and enforcement matters (except Planning) in order to provide a consistent approach across the Council.

2. Issues

- 2.1 The revised 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.
- 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 Deputy Chief Executive 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. A recent Planning Enforcement Plan was approved at Council in November 2023.

3. Recommendation

1. **That Cabinet approves the Corporate Enforcement Policy 2024 for the Borough, as attached at Appendix A to this report.**
2. **That the Cabinet agrees to the Corporate Enforcement Policy 2024 being presented to Council for formal approval and adoption.**

4. Reasons

- 4.1 The existing enforcement policy requires updating to include new sections on:

- Civil Penalties [Section 4.1.10]
 - Bankruptcy and Winding-Up Petitions [Section 4.1.17]
 - Mediation [Section 4.1.19]
- 4.2 The desire for enforcement matters to be considered in a consistent and co-ordinated approach across the Council.
- 4.3 To follow the principle of openness in providing clear information in plain language about how we carry out our work.
- 4.4 The approach supports better regulation for businesses.
- 4.5 The policy supports the key priorities for the Borough
- **Priority one: One Council delivering for local people** which underpins our work.
 - **Priority two: A successful and sustainable growing borough;** protecting our communities by improving how we use our enforcement powers.
 - **Priority three: Healthy, active and safe communities;** building on our work with Staffordshire Police and other partners to reduce anti-social behaviour and crime in our communities.
- 4.6 This is a living document and comments on the policy are welcomed throughout the duration of the policy.

5. Options Considered

- 5.1 Retaining the existing policy agreed in 2018. This would potentially leave the Council open to challenge in terms of 'openness' by providing information and advice about how we approach enforcement. The updated policy reflects up to date guidance and best practice.

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 The proposed policy is a revision of a policy previously adopted by Newcastle under Lyme Borough Council. An Equalities Impact Assessment has however been undertaken. There are no risks identified following the assessment. The proposed policy is consistent with national guidance on regulation and Officers must have due regard to Code C of PACE that protects young and vulnerable persons.

8. **Financial and Resource Implications**

- 8.1 There are no financial implications associated with the recommendation.
- 8.2 Enforcement actions is usually undertaken within existing budgets. Where existing budgets are unlikely to meet the financial costs of such action, then this will be the subject of a separate report.

9. **Major Risks & Mitigation**

- 9.1 A GRACE risk assessment has been completed including the following main risks:
- Legal challenge on content of policy.
 - Legal challenge on application of policy.
- 9.2 Controls have been identified and implemented in order to control these risks; the main controls include:
- Policy recognises current legal requirements.
 - Policy recognises current best practice and guidance in respect of enforcement.
 - Policy is a live document, which can be updated.

10. **UN Sustainable Development Goals (UNSDG)**

- 10.1 The proposal, by achieving (whatever) contributes towards the following UNSDGs



11. **Key Decision Information**

- 11.1 This is a key decision as it will affect more than two wards.

12. **Earlier Cabinet/Committee Resolutions**

- 12.1 The Council meeting on 21st February 2018 considered and approved the Corporate Enforcement Policy 2018-21. Minute number 12.

13. **List of Appendices**

- 13.1 Appendix A – Enforcement Policy 2024.

14. **Background Papers**

- 14.1 Local Government Concordat on Good Enforcement

14.2 The Regulators Compliance Code