

## **REPORT TO EXECUTIVE**

Date of Meeting: 1 December 2020

## **REPORT TO COUNCIL**

Date of Meeting: 15 December 2020

Report of: Director Net Zero Exeter & City Management

Title: Environmental Health and Community Safety Enforcement Policy

### **Is this a Key Decision?**

No

### **Is this an Executive or Council Function?**

Council

### **1. What is the report about?**

- 1.1 The Council's Environmental Health and Community Safety Team has statutory responsibility for the regulation of a wide range of activities which impact upon our residents, visitors, communities and businesses.
- 1.2 Allied to these responsibilities is the need for the Council to have an effective and efficient enforcement process that operates with due efficacy. The objective is to provide clarity and consistency for everyone with regard to how the Council will operate in resolving known breaches of regulatory control.
- 1.3 Officers will be able to focus activity on timely and meaningful action. Members will be able to play a supporting ambassadorial role within their communities in explaining the enforcement approach and how such matters may be resolved.
- 1.4 This report seeks to revise the Enforcement Policy to reflect changes created by new legislation, Government guidance and the revised structure of the service. The proposed revised policy ensures that enforcement actions are fair, consistent and transparent.

### **2. Recommendations:**

- 2.1 That Executive supports the adoption of the revised Enforcement Policy
- 2.2 That Council adopts the revised Enforcement Policy

### **3. Reasons for the recommendation:**

- 3.1 Local authorities are required to publish a policy setting out their approach to compliance and enforcement by the Regulators Compliance Code. This is an important document for regulators in meeting their responsibility under the statutory principles of good regulation to be accountable and transparent about their activities.

- 3.2 The Council will seek to secure compliance with the law, both informally by information, advice and support and by formal enforcement where appropriate.
- 3.3 This revised policy (Appendix A) is intended to provide guidance on the principles and processes that will apply when enforcement action is taken.

#### **4. What are the resource implications including non financial resources.**

- 4.1 The introduction of this policy will enable existing Officer resource to be focused on those areas prioritised by risk to public health or environment, and/or regulatory duty.
- 4.3 Effective implementation of the policy will also hinge on Members taking a proactive and ambassadorial role within their communities as to how the Council responds to enforcement activity and managing expectation.
- 4.4 Any income generated from the issuing of civil penalties is able to be retained by the local authority and will be re-invested into our private sector housing work area.

#### **5. Section 151 Officer comments:**

- 5.1 The updated penalty matrix is noted and Finance will work to ensure that the impact from a financial point of view is monitored.

#### **6. What are the legal aspects?**

- 6.1 The policy is compliant with the general principles and objectives of national regulatory guidance, with officers giving due consideration to detailed regulatory provisions relevant to that case when determining appropriate action on resolving a breach.
- 6.2 The Council believes in firm but fair enforcement of environmental legislation. This policy is based on the following five guiding principles:
- **consistency** - to ensure that similar issues are dealt with in the same way;
  - **proportionality** - to ensure that the action taken relates directly to the actual or potential risk to health and safety;
  - **targeting** - to ensure that resources are targeted where activities give rise to the most serious health/environmental risks;
  - **transparency** - to ensure that people easily understand the action expected of them and that clear distinctions are made between legal requirements and guidance; and
  - **accountability** - officers are accountable to citizens, Parliament and the Council for their actions, and the Council has an effective mechanism for dealing with complaints and comments

#### **7. Monitoring Officer's comments:**

Legal Services work very closely with the Environmental Health team when considering any enforcement action to ensure the 5 guiding principles set out in

paragraph 6.2 above is followed. As a result, the Monitoring Officer is supportive of this policy.

## **8. Report details:**

- 8.1 The policy has been updated in general terms to ensure focus is given to the underlying principles and approach taken by the service.
- 8.2 **Housing and Planning Act 2016:** The penalty matrix and approach to decisions around financial penalties has been updated, allowing for a broader range of proposed financial penalties for different levels of offence.

## **9. How does the decision contribute to the Council's Corporate Plan?**

The Enforcement Policy contributes to all aspects of the Council's Corporate Plan.

## **10. What risks are there and how can they be reduced?**

The revision of the Enforcement Policy ensures the Council is able to effectively discharge its statutory functions, while ensuring that the approach taken with regard to regulatory activities is consistent across the service.

## **11. Equality Act 2010 (The Act)**

- 11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:
- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
  - advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
  - foster good relations between people by tackling prejudice and promoting understanding.
- 11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.
- 11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.
- 11.4 In recommending this proposal, the potential impacts on people with protected characteristics as determined by the Act have been identified. To this end, an Equalities Impact Assessment has been included in the background papers for Member's attention.

## **12. Carbon Footprint (Environmental) Implications:**

12.1 Much of the work undertaken by the service is inextricably linked to the management of carbon emissions. This includes (but is not limited to):

- Regulation of industrial processes
- Domestic energy efficiency measures
- Food waste

12.2 Interventions in line with the recommended policy; from education and advice to effective and targeted regulatory enforcement, will help manage and reduce carbon emissions, although the overall reduction would be difficult to quantify.

## **13. Are there any other options?**

The Council is required to have an enforcement policy for Environmental Health and Community Safety. Therefore there is no other option available.

Director Net Zero Exeter & City Management – David Bartram

Author: Simon Lane - Service Lead – Environmental Health and Community Safety;

Philip Gilbert – Environmental Health and Community Safety Manager;

Lisa Cocks - Environmental Health and Community Safety Manager

## **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

- (1) Legislative and Regulatory Reform Act 2006;
- (2) Food Law Code of Practice;
- (3) Standard for Health and Safety Enforcing Authorities;
- (4) HSC Enforcement Policy Statement;
- (5) The Regulatory Enforcement and Sanctions Act 2008;
- (6) Regulator's Compliance Code.

Contact for enquires:  
Democratic Services (Committees)  
Room 4.36  
01392 265275