

## **EXETER CITY COUNCIL**

### **SCRUTINY COMMITTEE - COMMUNITY**

**4 SEPTEMBER 2007**

#### **ROGERS REVIEW OF ENFORCEMENT PRIORITIES FOR LOCAL AUTHORITY REGULATORY SERVICES**

##### **1. PURPOSE OF THE REPORT**

- 1.1 This report outlines the Rogers review into priority areas of local authority regulatory enforcement, and places it within the context of the Government's drive for better regulation.

##### **2. BACKGROUND**

- 2.1 Local Authorities considered collectively represent the country's largest enforcer, with most enforcement activity in environmental health, licensing and trading standards. The latter is currently a county council function in Devon, but this will change with unitary status. Within the Council, the former two functions come within Environmental Health Services.
- 2.2 The Hampton Review in 2005 recommended a new approach to regulation, with the emphasis on focusing on higher risk businesses or premises, rather than routinely carrying out inspections across the board. Enforcement is focused on higher risk businesses with a poor record of compliance, but with a lighter touch to those businesses showing good compliance. The Local Better Regulation Office (LBRO) a non-departmental public body has now also been formed as a result of this review.
- 2.3 This was followed by the Macrory Review of regulatory penalties, which recommended giving regulators a new flexible 'tool-kit' of sanctions to use against those who break regulations. The aim is that rogue businesses that repeatedly flout the law, will face quick, meaningful and proportionate penalties. The review was accepted by Government in November 2006 leading to the Regulatory Enforcement and Sanctions Bill, currently subject to consultation with a likely implementation date of April 2009 following royal assent.
- 2.4 The Government states that it is committed to making regulation work for everyone and in response to these reviews a significant programme of reform to regulation and enforcement is underway, with the objective of delivering better outcomes to consumers, workers and citizens by the most efficient and effective means. The emphasis of these changes is this not on de-regulation but on better regulation, as the Government views regulation to have an important part to play. The Rogers Review is thus the third significant review in the theme of better regulation and sets to guide local authorities into concentrating regulation enforcement in particular areas.
- 2.5 In Exeter, significant progress has already been made in Environmental Health Services, with a risk-based approach being integrated to all planned inspections of premises in relation to food hygiene, health and safety at work and private sector housing. The implementation of mandatory licensing of HMOs and smoke-free

legislation are both examples where the Council has successfully placed a great deal of effort into assisting private landlords and businesses to comply with the new legislation.

### **National Enforcement Priorities**

2.6 The aim of the Rogers Review is to provide clarity around the competing expectations and priorities that exist; help local authorities plan resources; improve the effectiveness of enforcement and support local authorities in spending less time on some activities or finding alternative ways of fulfilling their obligations. Nevertheless, local authorities must continue to meet the minimum enforcement level set out in domestic or European law for any activity where there is a statutory obligation.

2.7 The Rogers Review recommended five national priority enforcement areas as follows:

- 1) Air quality, including regulation of pollution from factories and homes (*because it impacts on whole populations and contributes to climate change*)
- 2) Alcohol, entertainment and late night refreshment licensing and its enforcement (*because licensing helps to control the significant ill-effects alcohol has to all parts of society, and alcohol fuels anti-social behaviour and violence, particularly affecting the young and vulnerable*)
- 3) Hygiene of businesses selling, distributing and manufacturing food and the safety and fitness of food in the premises (*because of the high impact in terms of deaths and ill-health caused by unhygienic food businesses and the high costs to the economy*)
- 4) Improving health in the workplace (*due to the high risks posed to individuals, their families, and damage to business and to the economy as a whole*)
- 5) Fair trading - trade description, trade marking, mis-description, doorstep selling (*because of the huge economic damage caused by rogue trading and mis-selling and the impact on individuals, particularly the vulnerable and elderly*)

2.8 The review also recommended an additional time limited enforcement priority of:

- Animal and public health, animal movements and identification (*because of the huge economic impact of animal infections such as foot and mouth disease*)

### **Local Enforcement Priorities**

2.9 The review sought to identify national priorities affecting all local authority areas, but it also recognised that there are other key areas that have a significant impact on the well-being of local communities and the quality of life of its citizens.

2.10 Policy areas that have been identified as local priorities in areas where problems exist are as follows:

- Local environmental quality
- Operation of the housing health and safety rating scheme (HHSRS)
- Licensing of houses in multiple occupation (HMOs)
- Contaminated land
- Noise nuisances
- Underage sales
- Consumer credit
- Imported food

### **3. PROPOSALS**

- 3.1 Local environment quality is a significant issue for Exeter's citizens and businesses. Dog fouling, litter, fly-tipping and graffiti all contribute to a general feeling of neglect and blight, which in turn damages a community's perception of their neighbourhood. Along with providing and emptying litter and dog bins, it is important to persuade people to take responsibility for their litter, and research has shown that besides education, enforcement has a key role in changing people's attitudes. In the last 12 months, 755 fixed penalty notices have been issued by the Council's Litter Enforcement Officers and Dog Wardens, the majority (648) being for litter.
- 3.2 Many local authorities have expressed surprise that both HMO Licensing and operation of the Housing Health and Safety Rating System (HHSRS) appear as "short-listed/potential local priorities" rather than national priorities. Peter Rogers has explained the lack of evidence of housing enforcement activity nationally in this area as the reason for it failing to reach the national priorities, however, there is no doubt that this area of regulation is particularly relevant in urban areas such as Exeter, where there is a large private rented sector. Decent homes giving healthy and safe housing, make a significant contribution to the well-being of communities and the health of citizens. We have as many as households living in houses in multiple occupation (HMOS) as in council houses.
- 3.3 In the first four months of 2007/08, 56 notices have been served on HMO landlords in respect of poor conditions found in the city. Poor and unsafe housing conditions have a significant impact on a person's health and well-being, particularly the young and old. For example, in the UK there are around 25,000 excess winter deaths every year caused by poorly insulated and inadequately heated homes. Excess cold is the chief Category 1 Hazard identified by the Housing Health and Safety Rating System (HHSRS) when officers inspect dwellings, alongside falls and overcrowding.
- 3.4 With around 2000 complaints of noise being received by the Council in 2006, noise nuisance investigation and enforcement take up a considerable amount of officer time. Noise is the main reason for citizens to complain to both Environmental Health Services and Housing Services.
- 3.5 It is therefore proposed that HMO Licensing, the operation of the HHSRS, noise nuisance and environmental quality are also deemed priorities for Environmental Health Services alongside the five national priorities, and that these are given greater emphasis in the Environmental Health Service Plans at the next review.

3.6 Although the Rogers Review sets out a list of five national priority areas for local authority enforcement, it does not affect the requirement for the Council to carry out statutory enforcement responsibilities in other areas.

#### **4. FINANCIAL IMPLICATIONS**

4.1 There are no direct financial implications arising from this report.

#### **5. RECOMMENDED that**

Scrutiny Committee – Community:

- 1) note the review carried out into national enforcement priorities for local authority regulatory services within the broader context of better regulation; and
- 2) supports placing greater emphasis on both those national priority areas which are the direct enforcement responsibility of this Council, and the local enforcement priorities described in paragraph 3.5 of this report.

#### **HEAD OF ENVIRONMENTAL HEALTH SERVICES**

S:PA/LP/ Committee/907SCC12  
23.8.07

#### **COMMUNITY & ENVIRONMENT DIRECTORATE**

#### **Local Government (Access to Information) Act 1985 (as amended) Background papers used in compiling this report:**

- 1) National enforcement priorities for local authority regulatory services