

AGENDA ITEM

REPORT TO CABINET

16 MARCH 2017

**REPORT OF SENIOR
MANAGEMENT TEAM**

CABINET DECISION

**ACCESS, COMMUNITIES AND COMMUNITY SAFETY – LEAD CABINET MEMBER –
COUNCILLOR STEVE NELSON**

REVIEW OF THE COUNCIL'S REGULATORY SERVICES ENFORCEMENT POLICY

1. SUMMARY

The Regulatory Services Enforcement Policy is designed to make sure that everyone knows the overriding principles that the Council's Regulatory Services will apply when carrying out enforcement work. The current version of the Policy was approved by Cabinet in September 2011 (minute CAB 50/11 refers) and is now due for review and renewal.

2. RECOMMENDATIONS

That Cabinet approve the proposed revised Policy.

3 Reasons for the Recommendations/Decision(s)

Stockton-on-Tees Borough Council is required, as part of Government's Regulators' Code, to publish, and keep under review, an Enforcement Policy relating to the activities of its Regulatory Services. The proposed revised policy statement follows a review and consultation exercise carried out in order to update the content of the Policy.

4. MEMBER'S INTERESTS

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 – 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the Member's financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the Member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a Member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code).

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a Member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted), **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a Member to leave the meeting room whilst the meeting is discussing a matter in which that Member has a disclosable pecuniary interest (**paragraph 22** of the code).

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SUMMARY

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RECOMMENDATIONS

That Cabinet approve the proposed revised Policy.

DETAIL

1. The Enforcement Concordat, introduced by the Cabinet Office in 1998, was formally adopted by Stockton-on-Tees Borough Council in August 2001. Prior to the introduction of the Enforcement Concordat, each regulatory service within the Authority was responsible for devising and implementing their own enforcement policies without the benefit of any central guidance. A copy of the Enforcement Concordat is attached at Appendix 1.
2. In April 2003, Cabinet approved a combined Regulatory Services Enforcement Policy for the first time. This Policy has subsequently been revised in November 2006 and in September 2011. This current process therefore represents the third review of the Council's Regulatory Services Enforcement Policy.
3. Enforcement, in the context of this Policy, includes action aimed at ensuring that individuals or businesses comply with the law, carried out in the exercise of, or against the background of, delegated statutory powers. This is not limited to formal enforcement action such as prosecution, but includes, for example, the provision of advice to aid compliance.
4. The Enforcement Policy therefore covers all of the Council's Regulatory Services, including Trading Standards, Licensing, Environmental Health, Animal Health, Planning, Building Control and those functions dealing with car parking enforcement, anti-social behaviour, environmental protection, housing and benefits enforcement.
5. In April 2014, the Government issued updated national guidance to regulators in the form of the Regulators' Code, a copy of which is attached at Appendix 2. The requirements of the new Regulators' Code have been included in the revised draft of the Policy.
6. Regulatory Services within the Council have been consulted on the draft revised Policy. In addition consultation has taken place by means of a public notice in a local newspaper and via the Trading Standards and the 'Consultation Have Your Say' pages of the Council's website; this consultation closed on 31 January 2017. No comments were received from any member of the public.

7. The draft revised Regulatory Services Enforcement Policy showing track changes is attached at Appendix 3.

COMMUNITY IMPACT IMPLICATIONS

8. The primary aim of enforcement activity is to achieve regulatory compliance in order to help and protect the general public, legitimate businesses, the environment and particular groups such as consumers, workers and children. Approval of the revised Enforcement Policy will help ensure that the enforcement activities undertaken by the Council's Regulatory Services are fair, consistent and effective.

FINANCIAL IMPLICATIONS

9. There are no financial implications contained in this report.

LEGAL IMPLICATIONS

10. The review process provides evidence that the Authority is monitoring and reviewing its Enforcement Policy. In addition the approval of the Enforcement Policy will assist in ensuring that enforcement activities are carried out in an open and transparent manner and this will strengthen the Council's position when defending any actions or dealing with any appeals. Any person aggrieved by the policy proposals has a legal right of challenge by way of Judicial Review.

RISK ASSESSMENT

11. This report is categorised as low risk. Existing management systems and routine activities are sufficient to control and reduce risk.

COUNCIL PLAN POLICY PRINCIPLES AND PRIORITIES

12. The approval of the revised Enforcement Policy underlines that the Authority has considered how and when it would be appropriate to use enforcement sanctions to ensure a change of conduct that will improve/maintain policies in relation to Safer Communities, Economic Regeneration and Transport, Children and Young People, Health and Wellbeing and Environment and Housing.

CORPORATE PARENTING RESPONSIBILITIES

13. This report does not contain any corporate parenting responsibilities.

CONSULTATION INCLUDING WARD/COUNCILLORS

14. Regulatory Services within the Council have been consulted on the draft revised Policy. In addition consultation has taken place by means of a public notice in a local newspaper and via the Trading Standards and the 'Consultation Have Your Say' pages of the Council's website; this consultation closed on 31 January 2017. No comments were received from any member of the public

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Education Related? No

Background Papers: None

Ward(s) and Ward Councillors:

Not ward specific

Property:

No property implications