

AGENDA ITEM

REPORT TO CABINET

14 JULY 2022

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

**LEAD CABINET MEMBER – CABINET MEMBER FOR ACCESS, COMMUNITIES AND
COMMUNITY SAFETY – COUNCILLOR NORMA STEPHENSON**

REVIEW OF THE COUNCIL'S REGULATORY SERVICES ENFORCEMENT POLICY

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 March 2017 and is now due for review and renewal.

RECOMMENDATIONS

That Cabinet approve the proposed revised Policy.

DETAIL

1. 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.
2. 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.
3. 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.
4. Regulatory Services within the Council have been consulted on the draft revised Policy. In addition public consultation has taken place by means of the 'Consultations – Have Your Say' pages of the Council's website. This consultation ran throughout April 2022 and no comments were received from any member of the public.
5. The draft revised Regulatory Services Enforcement Policy, showing track changes within the main body of the Policy, is attached at Appendix 1.
6. The new Policy reflects changes to the Code for Crown Prosecutors, including:-

- An additional question in the Evidential Test as to whether there is any material that might affect the sufficiency of the evidence, such as any examined and as yet unexamined material and material that may be obtained through further reasonable lines of enquiry.
- As part of the Public Interest Test, on each charging decision for each suspect, there must be recognition of a lower culpability where there is the issue of compelled / coerced / exploited persons, or persons in a vulnerable situation; for example, a decision to prosecute may be evidentially sound, but may not be in the public interest where it is believed that the suspect was coerced by others.
- A recognition that proceeds of crime considerations should be made during the investigation stage and reflected on during the public interest / culpability issue of any charging decision.

7. The draft revised Policy also has additional information on civil or financial penalty notices and includes as an appendix, a new penalty policy in relation to relevant letting agency legislation.

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.

CORPORATE PARENTING RESPONSIBILITIES

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

WARDS AFFECTED AND CONSULTATION WITH WARD/COUNCILLORS

13. Not Applicable.

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