

For publication

Corporate Enforcement Policy (GV600L)

Meeting: Cabinet

Date: 13 March 2018

Cabinet portfolio: Governance

Report by: Senior Environmental Health Officer

1.0 Purpose of report

- 1.1 To enable consideration of a Corporate Enforcement Policy and the supplementary guidance on the issuing of Fixed Penalty Notices, as a result of the Regulators Code 2014.
- 1.2 To ask Members to approve that the documents in Appendix A and Appendix B are adopted as a corporate approach to enforcement.

2.0 Recommendations

- 2.1 To ask Members to approve the Corporate Enforcement Policy as outlined in Appendix A.
- 2.2 To ask Members to approve the Fixed Penalty Notice – supplementary guidance as outlined in Appendix B.
- 2.3 That the Senior Environmental Health Officer in consultation with the Cabinet member for Governance is given delegated authority to approve minor amendments to the 'Corporate

Enforcement Policy' document or 'Fixed Penalty Notice Supplementary Guidance' document should there be the need for change; driven by either a change in legislation, national guidance or for minor editorial amendments.

3.0 Background

- 3.1 The government is committed to reducing regulatory burden on business and supporting growth of compliant business and constructive relationships between regulators and those they regulate.
- 3.2 The Regulators Code came into statutory effect on 6th April 2014 and replaces the Regulators Compliance Code. It provides a principles-based framework for how regulators should engage with those they regulate. A copy of the Regulators Code is contained in Appendix C.
- 3.3 The specific services listed in the Regulators' Code are food safety, environmental protection, health & safety, private sector housing, public health, waste and licensing.
- 3.4 Other regulatory and enforcement services which are not specifically listed in the Code, but also carry out enforcement duties are planning, building control, parking services, rent and council tax recovery, community safety partnership and housing/tenancy management teams.
- 3.5 The broad principles contained within the Corporate Enforcement Policy are equally applicable to all enforcement services and should be adopted as a corporate approach to enforcement.

4.0 Background - The Regulators Code

4.1 The Regulators Code is based on 6 broad principles which are set out below. The Code contains a section on each of these which sets out what is expected of the regulator in each case.

1. Regulators should carry out their activities in way that supports those they regulate to comply and grow.
2. Regulators should provide straightforward ways to engage with those they regulate and hear their views.
3. Regulators should base their regulatory activity on risk.
4. Regulators should share information about compliance and risk.
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
6. Regulators should ensure that their approach to their regulatory activities is transparent.

4.2 A key action required to ensure compliance with the Code is to have an enforcement policy explaining how the local authority responds to non-compliance.

4.3 It is also a requirement of the Code that mechanisms are put in place to engage with those they regulate including the development of service standards. A copy of the Environmental Health Service Standards is available in Appendix D.

5.0 **Background – Overview of Enforcement**

5.1 Chesterfield Borough Council carries out a wide range of regulatory roles in meetings its many statutory functions of protecting the public, individuals and the environment. These functions are discharged through a combination of programmed inspections, responding to complaints, issuing licences and offering advice.

- 5.2 This Corporate Enforcement Policy is an overarching policy that applies to all the Council's services. Certain service areas may have additional service specific enforcement requirements (for example, private sector housing team, tenancy management team and community safety team).
- 5.3 The Corporate Enforcement Policy is intended to protect the public, the environment and workers through:
- Enforcing the law in a fair, equitable and consistent manner.
 - Assisting compliant businesses to meet their legal obligations.
 - Taking firm action against those who flout the law or act irresponsibly.
- 5.4 The Policy sets out the broad approach that the Council will take to enforcement and commits us to being:
- Proportionate – our activities will reflect on the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
 - Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
 - Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others.
 - Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
 - Targeted – we will focus our resources on higher risk enterprises and activities.
- 5.5 The Policy sets out the levels of enforcement action available to the council, how we will determine which action is appropriate in the event of non-compliance and how we will conduct our investigations.

6.0 Equalities Impact Assessment (EIA)

- 6.1 During policy development equality, diversity and human rights issues were considered and a preliminary EIA completed. No negative impacts for protected groups have been identified.
- 6.2 We apply the principles of the European Convention for the Protection of Human Rights and fundamental freedoms. This Policy and all associated enforcement decisions take into account the provisions of the Human Rights Act 1998; in particular, due regard is had to the right to a fair trial and the right to respect for family and private life, home and correspondence.

7.0 Financial Implications

- 7.1 This Policy provides a framework for the delivery of the Council's regulatory services setting out the principles of good enforcement practice and the governance arrangements that apply to officers carrying out enforcement work. Adherence to the Policy will help protect the Council from legal challenge and financial claims from inappropriate enforcement action.

8.0 Risk Management

Table 1 – risk factors affecting enforcement

Risk	Likelihood	Impact	Mitigating Action	Revised Likelihood	Residual Impact
Legal challenge against enforcement action.	Medium	Medium	The new policy and service standards are based on the principles of good regulation including being proportionate, accountable,	Medium	Low

			<p>consistent, transparent and targeted.</p> <p>This approach plus effective training for staff engaged in enforcement activity reduces the risk of successful legal challenge.</p>		
Lack of resources to deliver enforcement activity.	High	Medium	<p>New policy confirms that we will target our resources on higher risk enterprises and activities, reflecting local and national priorities.</p> <p>The introduction of a standard approach to enforcement also enables multi-skilling and mutual aid arrangements across service areas.</p>	Medium	Low

9.0 Recommendations

- 9.1 To ask Members to approve the Corporate Enforcement Policy as outlined in Appendix A.
- 9.2 To ask Members to approve the Fixed Penalty Notice – supplementary guidance as outlined in Appendix B.
- 9.3 That the Senior Environmental Health Officer in consultation with the Cabinet member for Governance is given delegated authority to approve minor amendments to the 'Corporate

Enforcement Policy' document or 'Fixed Penalty Notice Supplementary Guidance' document should there be the need for change; driven by either a change in legislation, national guidance or for minor editorial amendments.

10.0 **Reasons for recommendations**

- 10.1 To have a corporate approach to enforcement across all services that carry out regulatory roles.

Decision information

Key decision number	678
Wards affected	All wards
Links to Council Plan priorities	To provide value for money services.

Document information

Report author	Contact number/email
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Background documents These are unpublished works which have been relied on to a material extent when the report was prepared.	
This must be made available to the public for up to 4 years.	
Appendices to the report	
Appendix A	Corporate Enforcement Policy
Appendix B	Fixed Penalty Notice – supplementary guidance
Appendix C	The Regulators Code
Appendix D	Environmental Health Service Standards