

A meeting of the **LICENSING COMMITTEE** will be held in **PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **WEDNESDAY, 7 FEBRUARY 2018 ON THE RISING OF THE LICENSING AND PROTECTION COMMITTEE** and you are requested to attend for the transaction of the following business:-

**Contact
(01480)**

APOLOGIES

1. MINUTES (Pages 5 - 8)

To approve as a correct record the Minutes of the meetings held on 22nd March and 17th May 2017.

**Democratic
Services**

2. MEMBERS INTERESTS

To receive from Members declarations as to disclosable pecuniary and other interests in relation to any Agenda Item.

3. CORPORATE ENFORCEMENT POLICY (Pages 9 - 34)

To consider a report concerning the development of a Corporate Enforcement Policy for the Council.

**Finlay Flett
388377**

4. LICENSING SUB COMMITTEES (Pages 35 - 36)

To receive a summary of the meetings of the Licensing Sub-Committee which have taken place since the last meeting of the Committee.

**Democratic
Services
388169**

Dated this 30th day of January 2018



Head of Paid Service

Notes

1. Disclosable Pecuniary Interests

- (1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*
- (2) *A Member has a disclosable pecuniary interest if it -*

(a) relates to you, or

(b) is an interest of -

(i) your spouse or civil partner; or

(ii) a person with whom you are living as husband and wife; or

(iii) a person with whom you are living as if you were civil partners

and you are aware that the other person has the interest.

(3) Disclosable pecuniary interests includes -

(a) any employment or profession carried out for profit or gain;

(b) any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);

(c) any current contracts with the Council;

(d) any beneficial interest in land/property within the Council's area;

(e) any licence for a month or longer to occupy land in the Council's area;

(f) any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or

(g) a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.

Non-Statutory Disclosable Interests

(4) If a Member has a non-statutory disclosable interest then you are required to declare that interest, but may remain to discuss and vote providing you do not breach the overall Nolan principles.

(5) A Member has a non-statutory disclosable interest where -

(a) a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

(b) it relates to or is likely to affect a disclosable pecuniary interest, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association, or

(c) it relates to or is likely to affect any body –

(i) exercising functions of a public nature; or

(ii) directed to charitable purposes; or

(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of control or management.

and that interest is not a disclosable pecuniary interest.

2. Filming, Photography and Recording at Council Meetings

The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and available via the following link [filming, photography and recording at council meetings.pdf](#) or on request from the Democratic Services Team. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chairman of the meeting will facilitate this preference by ensuring that any such request not to be recorded is respected.

Please contact Mrs Claire Bulman, Democratic Services Officer, Tel: 01480 388234 / email Claire.Bulman@huntingdonshire.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee/Panel.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (*under Councils and Democracy*).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Elections & Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in Civic Suite 0.1B, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 22 March 2017.

PRESENT: Councillors Mrs B E Boddington,
Mrs S Conboy, J E Corley, S J Criswell,
J W Davies, R Fuller, D J Mead,
Mrs J Tavener, D R Underwood, D Watt and
R J West.

APOLOGY: An Apology for absence from the meeting was submitted on behalf of Councillor Mrs S A Giles.

13. ELECTION OF CHAIRMAN

RESOLVED

that Councillor S J Criswell be elected Chairman of the Committee for the remainder of the Municipal Year.

Councillor S J Criswell in the Chair.

14. MINUTES

The Minutes of the meeting of the Licensing Committee held on 19th July 2016 were approved as a correct record and signed by the Chairman.

15. MEMBERS INTERESTS

No declarations of interest were received.

16. LICENSING SUB COMMITTEES

With the aid of a report by the Elections and Democratic Services Manager (a copy of which is appended in the Minute Book) the Committee noted the details of one meeting of the Licensing Sub Committee which had taken place since their last meeting.

Chairman

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in the Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 17 May 2017.

PRESENT: Councillors Mrs B E Boddington, J E Corley, S J Criswell, J W Davies, R Fuller, Mrs S A Giles, J M Palmer, Mrs J Tavener, R G Tuplin and R J West.

1. ELECTION OF CHAIRMAN

RESOLVED

that Councillor S Criswell be elected Chairman of the Committee for the ensuing Municipal Year

Councillor S Criswell in the Chair.

2. MEMBERS INTERESTS

No declarations were received.

3. APPOINTMENT OF VICE-CHAIRMAN

RESOLVED

that Councillor J W Davies be appointed Vice-Chairman of the Committee for the ensuing Municipal Year

Chairman

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Public

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter:	Corporate Enforcement Policy
Meeting/Date:	Licensing Committee – 7th February 2018
Executive Portfolio:	Executive Councillor for Community Resilience, Well-being and Regulatory Services – Councillor Mrs A Dickinson
Report by:	Head of Community
Wards affected:	All

Executive Summary:

This report deals with the development of a Corporate Enforcement policy designed to operate across the 'Delivery' Directorate of the Council and encompassing regulatory services broadly within the remit of the Community Services and Development Services.

The principles of the policy are focused on securing 'certainty and consistency' in the Council's approach to breaches of regulatory control and how the Council will operate in terms of process and penalty in seeking to advise, guide and resolve such issues in the public interest and whilst aligning to the Council's strategic objectives for growth.

Recommendation

The Committee is invited to contribute to the development of the Corporate Enforcement Policy by considering and providing comments on the draft Discussion Documents attached at Appendices A-C.

1. PURPOSE OF THE REPORT

- 1.1 The Council has statutory responsibility for the regulation of a wide range of activities which impact upon our residents, visitors, communities and businesses. Within the 'Delivery' Directorate, these include environmental health, licencing and planning. In addition, the Council is also responsible for developing and implementing local regulations covering issues such as littering and dog control.
- 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 maximise clarity, certainty and consistency for everyone in the process as to how the Council will operate in resolving known breaches of regulatory control. 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 how such matter are resolved and the various actions and timescales involved to achieving solutions.

2. WHY IS THIS REPORT NECESSARY/BACKGROUND

- 2.1 The aims in developing a single policy to cover regulatory enforcement have been to ensure, as far as possible, appropriate prioritisation of enforcement work, consistency of approach and clarity of expectation. Ultimately, this will be captured in a range of policy and operational documents, with an overarching Policy Statement 'on a page' as at Appendix A.
- 2.2 Council Officers will use the policy and matrix toolkit to ensure suspected breaches are investigated and resolved in a prioritised and proportionate manner, leading to the earliest feasible resolution and the focus of resources on a 'lean' approach to caseloads. The why and how of the Councils enforcement activities are set out, in draft, at Appendices B & C.
- 2.3 Ultimately, the wording of Appendices B & C may merge in to a singular supporting document, with the Matrix Model currently within Appendix C being the primary document of importance. The views of Overview & Scrutiny are sought on the content and format on those draft documents and comment on what would be easiest for Officer, Member and public use.

3. OPTIONS CONSIDERED/ANALYSIS

Discussion Document 1 – Policy Development

- 3.1 Discussion Document 1, attached at Appendix B, covers the general aims of enforcement, the national guidance and government expectations, and sets out guiding principles for enforcement activities.
- 3.2 In summary, the suggested Council approach is:
- ensuring compliance with the relevant legislation and associated regulations whilst enabling business growth;
 - supporting individuals or businesses to achieve compliance;
 - proportionate and transparent, with frequent and clear communication
 - solutions sought at the lowest level likely to secure compliance;

- penalty action in cases of serious breaches or where individuals or businesses are not co-operating in an open or timely way.

Discussion Document 2 – Guidance Development

- 3.3 Discussion Document 2, attached at Appendix B, provides more detail on how enforcement will be carried out in practice. It sets out an enforcement model which details how different forms of breach will be prioritised, investigated and escalated toward achieving a compliance solution.
- 3.4 The matrix model is set out for easy reference as follows:-
- Types of breaches listed in the left hand column, with individual lines showing the available enforcement options and escalation routes;
 - White section showing the initial priority to be given to reports of potential breaches;
 - Coloured sections showing increasing levels of action and formality of enforcement interventions, from green through amber to red, with escalation of potential penalty;
 - Checked boxes showing options which would normally be discounted as inappropriate due to the nature of the breach.
- 3.5 The model maximises the certainty of actions to be taken but cannot be absolutely prescriptive, as the Council must retain an element of flexibility and discretion in determining the best way to resolve a breach. National guidance suggests formal enforcement should be a matter of last resort and there may be circumstance where breaches could simply be tolerated due to little demonstrable harm to the public or environment.

4. KEY IMPACTS / RISKS

- 4.1 The introduction of a singular Corporate Enforcement Strategy for the 'Delivery' Directorate will enhance the certainty and consistency of the Councils activities around regulatory compliance and reduce the risk of process failures or customer confusion on outcomes and timescales.

5. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

- 5.1 The Corporate Enforcement Policy, as a key corporate policy, will ultimately require Council approval. Prior to that, the principles will be discussed at the related operational service committees i.e. Development Control Committee and Licencing and Protection Committee. All views and finalised documents will then be considered by Cabinet, for recommendation to Council for endorsement.

6. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES

- 6.1 This policy will contribute to the Councils objectives of being an Efficient and Effective Council that is customer focussed and works strongly to enable growth, economic success and protect the environment.

7. CONSULTATION

7.1 This policy has been evolved through Member reference groups and direct consultation with the Portfolio Holder and Chairmen of the relevant service Committees.

7.2 The comments of the Overview and Scrutiny Panel (Communities and Environment) and the Development Management Committee are attached at Appendices D and E for information.

8. LEGAL IMPLICATIONS

8.1 The policy itself will be 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.

9. RESOURCE IMPLICATIONS

9.1 The introduction of this policy will enable existing Officer resource to be focused on clear prioritised and timely actions, with the expectation of responsiveness from those in breach. This should lead to more efficient and effective working on 'lean' principles within existing resource capacity.

9.2 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.

10. REASONS FOR THE RECOMMENDED DECISIONS

10.1 Adoption of a Corporate Enforcement Strategy responds directly to the need for the Council to have an effective and efficient enforcement process that operates with due efficacy. The objective is to maximise clarity, certainty and consistency for everyone in the process as to how the Council will operate in resolving known breaches of regulatory control.

11. LIST OF APPENDICES INCLUDED

Appendix A – Policy Statement

Appendix B – Discussion Document 1 (Policy)

Appendix C – Discussion Document 2 (Guidance)

Appendix D – Comments of Overview and Scrutiny Panel (Communities and Environment) – 9/1/18

Appendix E – Comments of Development Management Committee – 18/1/18

BACKGROUND PAPERS

None

CONTACT OFFICER

Name/Job Title Finlay Flett, Operational Manager

Tel No 01480 388377

Email finlay.flett@huntingdonshire.gov.uk

HUNTINGDONSHIRE DISTRICT COUNCIL

STATEMENT OF CORPORATE ENFORCEMENT POLICY

Huntingdonshire District Council (HDC) is the statutory regulator and enforcement body for a range of service areas, with statutory duty to ensure compliance.

HDC views effective regulation as being essential in providing a safe environment for the district of Huntingdonshire, its residents, its visitors and its businesses. Our regulatory work will support our residents and businesses and support our wider strategic objectives for sustainable growth.

We will investigate reports of regulatory breaches in a timely and transparent manner, with priority being given to potentially serious breaches and situations where immediate action may be required to ensure public safety or prevent permanent damage to vulnerable sites.

If enforcement action is required, we will take sequential action which is proportionate and transparent.

Where we find regulatory breaches, we will seek to work constructively with the individuals or businesses involved to rectify the situation. We will:

- identify regulatory breaches and advise on steps required to comply with the relevant legislation.
- advise on an acceptable timetable for achieving compliance
- take all necessary steps if voluntary compliance is not achieved.

If enforcement action is required, we will take sequential action which is proportionate and transparent, and ultimately, Court action if necessary.

These policy principles will be detailed in an operational guidance document for Council officers, setting out expectations for investigating and taking enforcement action against identified regulatory breaches and the associated steps for action on each main type of scenario.

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DISCUSSION DOCUMENT 1: - Corporate Enforcement Policy

Purpose of the Policy

The purpose of this policy is to provide certainty and consistency in an over-arching framework that explains the Council's approach to its regulatory duties, guides Officers in enforcement work and offers insight into the role of enforcement in the achievement of the Council's wider strategic objectives. The policy will help us achieve transparency and consistency and make sure that enforcement is effective and proportionate. It will help keep the public and environment safe while supporting the general aim of enabling growth.

Aim of the Policy

The aim of this policy is to establish a regulatory and enforcement framework that enables the Huntingdonshire area to be successful by ensuring expedient compliance with the various regulatory regimes within which the Council provides its services. In delivering effective regulation and enforcement, we will be proportionate, transparent, fair and effective, working at the lowest possible level to help individuals and businesses comply with the law and the associated regulatory guidance.

Establishing this policy is intended to clarify the Council's potential responses to different forms of regulatory breach without restricting its enforcement options.

The intent of the policy is to be clear that, in regulating activities, the Council will work with those being regulated to help achieve compliance. It is also to set clear expectations that, if required, the Council will escalate actions and take enforcement if non-compliance continues. We will be clear about process and clear about whether particular activities can continue or need to be ceased.

Helping to deliver Huntingdonshire's priorities

Effective regulation and appropriate enforcement linked with this policy will contribute to the delivery of Huntingdonshire District Council's strategic aims. This policy will make specific contributions to Huntingdonshire's priorities as outlined below:

Enabling Communities

Objective: - Create, protect and enhance our safe and clean built and green environment

Regulatory services impact on the environment and the use of land and premises. Effective regulation and enforcement will help protect these and make sure that individuals and businesses act responsibly when accessing and interacting with the environment.

Delivering Sustainable Growth

Objective: - Accelerate business growth and investment

Objective: - Support development of infrastructure to enable growth

Our aim is to develop and operate regulatory and enforcement services which help, not hinder businesses in their operation and growth. We aim to ensure compliance with the law through the provision of a range of services including, advice, information and appropriate support- with targeted and proportionate enforcement only when necessary.

Becoming a More Efficient and Effective Council

Objective: - Become more efficient and effective in the way we deliver services

Objective: - Become a customer focused organisation

The development and delivery of a corporate enforcement policy will help us focus on issues which are important and reflect the needs of our community, helping individuals and businesses comply with their legal responsibilities. This approach will help us become more efficient, removing duplication, streamlining processes and ensuring consistency and certainty of approach as we work within multiple legal frameworks.

Scope of the Policy

This policy provides an over-arching framework for enforcement linked to the Council's regulatory duties so will provide a banner under which these services operate. It will establish a set of common principles and objectives within which these will be provided, allowing our customers to understand our approach and have a reasonable expectation of how we will carry out regulatory and enforcement activity, whatever specific services are involved.

Some of our work is governed by specific legislation and statutory guidance which sets out prescribed procedural approaches which must be followed. This policy is not intended to over-write or contradict these, rather it is to explain the Council's approach to regulation and enforcement in general terms.

The policy will cover the following service areas:

- Animal Health and Welfare, including dog control;
- Animal licensing;
- *Building control*;
- Community Safety, including Anti-Social Behaviour and Enviro-Crime;
- Environmental Health, including food safety, pollution control, nuisance;
- Private sector housing ;
- Health and Safety;
- Licensing, including personal, premises and event licences, Hackney carriage and private hire regulation;
- Planning and Development Management;
- *Waste collection and disposal*.

This is intended to be an indicative rather than an exhaustive list and will be subject to change over time should the Council's regulatory duties change in the light of legislation, statutory guidance or case law.

The policy will cover all incidents, accidents, activities, actions or acts of omission by individuals, organisations or businesses which are in breach of legislation and which have the potential, if unchecked, to result in legal action.

The policy will not include enforcement activities linked to off-street parking, benefit issues, fraud and serious crime, which are covered by service-specific protocols.

Regulation and Enforcement

Many aspects of our lives are controlled by the law. The Government has legislated to control individuals, businesses, processes and our impact upon the environment. Generally, this legislation is in place to protect the public and the environment from misuse and hazard. The Council has a statutory duty to monitor, regulate and enforce in a range of areas set out by the Government.

We will take an approach to regulation which is risk-focussed and intelligence-led. Our inspection activities will be targeted at areas, activities, individuals and businesses which pose the most significant risks and we will act appropriately on data and received information to target our work.

We believe that the vast majority of individuals, organisations and businesses want to comply with the law. Wherever possible, we will help them to do so. As a general rule, our contact will be supportive and, wherever possible, we aim to ensure compliance with legislation through the provision of support, advice and information- ensuring that we promote understanding of both statutory responsibilities (minimum standards) and good practice (desirable standards). Where things have gone wrong, our primary focus will be to ensure that they can be put right and that the public are protected from the impact of poor practice. In all cases, our activities will be delivered in a clearly articulated timescale and our officers will clearly communicate expectations and next steps.

On occasion, it will be necessary for us to take action under the relevant statutory framework. This may be due to finding serious problems, finding issues which present dangers to people or the environment, finding issues which have not been resolved satisfactorily despite previous advice or action, or finding evidence of criminal acts. In these cases, we will act in a manner which is fair, consistent and proportionate to the individual set of circumstances we are dealing with at the time.

Our approach to Enforcement

Enforcement will aim to protect and enhance the environment of Huntingdonshire and to protect and improve the quality of life of its residents and businesses.

The Council is committed to providing a timely, robust and proportionate, regulation and enforcement system for the issues which we are responsible for. When we are carrying out enforcement activity, we will do so fairly, in accordance with a nationally recognised set of principles, and by officers who are competent, suitably experienced and appropriately authorised to carry out this important work.

Where appropriate, we will work with partners and other appropriate external agencies to assess risk, exchange information, process data and provide appropriate and proportionate enforcement services.

Enforcement principles

The Council is committed to the principles of good enforcement set out in the **Enforcement Concordat** and other guidance issued by Government departments. These principles are:

- **Standards:** We will set clear standards for our level of service and performance. We will monitor our performance and strive to improve;
- **Openness:** We will Provide information on regulations and enforcement practice, discuss compliance failures or problems with anyone experiencing difficulties. We will disseminate information widely and we will be approachable to business;
- **Helpfulness:** We will provide clear advice, confirmed in writing if appropriate. We will distinguish between best practice advice and legal requirements. We will consider providing an opportunity for discussion before formal enforcement action. We will give a clear explanation of the need for any immediate action. We will focus on preventative activity.
- **Complaints:** We will welcome complaints regarding our enforcement and investigate them thoroughly where there are clear material issues;
- **Proportionality:** We will aim to tailor enforcement action to minimise costs of compliance. We will prosecute when proportionate to bring serious offenders to account;

- **Consistency:** We will have effective arrangements to promote consistency and, where appropriate, liaise with other enforcement bodies;

We will apply the principles of the **Regulators' Compliance Code** to promote an efficient and effective approach to regulatory inspection and enforcement, improving the outcome of regulation without imposing unnecessary burdens on individuals or businesses. These principles are:

- Regulators should allow, or even encourage, economic progress and only intervene when there is a clear case for protection;
- Regulators should use comprehensive risk assessment to concentrate resources on the areas that need them most;
- Regulators should provide authoritative advice easily and cheaply. No inspection should take place without a reason;
- Businesses should not have to give unnecessary information;
- Businesses that persistently break regulations should face meaningful sanctions;
- Regulators should be accountable for the effectiveness of their activities.

If necessary, enforcement may be carried out by the Council, in association with appropriate partners, or through the appropriate Primary Authority if one exists.

Responding to reports of possible regulatory breaches

Reports of potential breaches will receive an initial assessment in order to determine whether a prioritised (urgent) response is required, whether there is possible offending taking place and which officers should lead on any necessary investigation and enforcement.

Investigations

Where necessary, we will carry out investigations in order to determine whether the law has been broken and to gather an appropriate amount and standard of evidence to provide a sufficient standard of proof to meet the requirements of the level of enforcement which is deemed appropriate. These investigations will be carried out within a prescribed timescale, dependent upon the nature of the breach.

Investigations may involve: monitoring environmental or other physical data; conducting interviews, either informally or under PACE (Police and Criminal Evidence Act) conditions, taking photographs, taking video recordings; monitoring via overt or covert CCTV, using powers of entry to gain access to premises or other legally available means deemed necessary and proportionate. Investigations will prioritise the early identification of all relevant parties in order that any necessary action will not be delayed unduly.

All investigations will be undertaken in adherence with the relevant statutory requirements of the legislation involved and will be compliant with the Regulation of Investigatory Powers Act 2000 and the Protection of Freedoms Act 2012. All information shared with other agencies will be in accordance with agreed Information Sharing Protocols. All information will be handled in accordance with the Data Protection Act and all current data protection guidance.

Enforcement Action

Being committed to the principles outlined above, wherever possible our approach will be to resolve problems and ensure safe operations and appropriate protection of the public and the environment. We will aim to provide advice and information and be clear in this about the difference between good practice advice and legal requirements. Where intervention is required, we will aim to provide informal interventions, only proceeding to formal interventions and legal action where this is

necessary, proportionate and in the public interest. Instances of non-compliance and failure to co-operate will lead to an escalation of action.

Where we take action, this will have the objectives of achieving compliance with the relevant legislation within a reasonable, explicitly stated, timescale and, if appropriate, seeking appropriate redress from the individual, organisation or business which is subject to this action.

Action will be proportionate to the harm caused by the offence. Harm will be assessed in terms of direct impact of the offence and any potential indirect impact.

Informal action could include: providing verbal advice; accepting voluntary undertakings; giving verbal warnings. It is likely that advice requiring improvement works or acceptance of voluntary undertakings to carry out improvements will be time-bound, generally offering a period of up to one month to make such improvements as are deemed appropriate.

Informal action may be deemed appropriate in situations where, for example, a first offence, the offence considered is minor or has low impact, compliance is readily achievable, the offender has sought advice to resolve a problem.

Formal action could include; a warning letter; a 'letter before action' a statutory notice; a fixed penalty notice; amending licence conditions, referral to Licensing Panel; simple caution; civil court proceedings; criminal court proceedings. The requirements of warnings and notices will be time-bound, generally offering a period of up to one month to make such improvements as are deemed appropriate. Ordinarily, due to evidential requirements, all steps prior to court action will take place in a period of less than six months from the initial identification of a possible offence.

Formal action may be deemed appropriate in situations where, for example, the offence is serious, the offence has a high impact on individuals, the community or the environment, is a repeat offence, previous action has not resulted in compliance, compliance is considered unlikely, statutory process states that this is required.

Generally, formal action would be preceded by an informal stage involving information, advice or warning. However, immediate formal action may be taken in situations where this is appropriate and proportionate.

Where formal action includes court proceedings, the Council will seek to recover its costs following a successful prosecution. In preparing court proceedings, we will consider the appropriateness of the full range of sanctions including (but not limited to) injunctions, restorative justice, and use of the Proceeds of Crime Act against individuals being prosecuted.

These are outlined as examples of possible sanctions and scenarios, not as an exhaustive list.

We will generally aim to enforce at the lowest level which is consistent with achieving compliance or taking sanction against non-compliance. However, in serious cases, in cases where there has been repeated offending, or in cases where initial action has not been effective in achieving compliance, it may be necessary to take immediate action at higher levels.

When deciding the most appropriate enforcement method, we will consider the full circumstances of each individual case, taking account of a wide range of issues including:

- The seriousness of the situation;
- The circumstances of the case and the likelihood of recurrence;

- The different options for achieving compliance with the relevant law;
- The level of risk to the public and the environment;
- Any relevant previous history of the offender or location, including the existence of existing control measures, e.g. conservation area, area subject to public space protection order;
- The likelihood of achieving a satisfactory outcome;
- Any relevant precedents;
- The attitude of the offender;
- Legal imperatives, e.g. statutory requirements to follow a particular process;
- Relevant guidance;
- The availability of admissible evidence;
- The prevalence of the offence locally or nationally;
- The public interest.

We will put appropriate internal controls and management checks in place to ensure that enforcement activity is appropriately authorised, appropriately recorded, is carried out in accordance with the principles outlined in this policy and we will ensure that all formal enforcement is appropriately authorised, compliant with statute and subject to appropriate quality assurance checks.

Enforcement with other agencies

We will liaise appropriately with other agencies in cases where our investigations indicate that there is a possibility that investigation or enforcement may be required which is outside the Council's area of responsibility. This may be in addition to the Council's actions or may replace Council action if another agency is able to be more effective or apply more pertinent legislation. Similarly we will accept referrals from external agencies if their work indicates that investigation or enforcement may be required in an area which is within our remit. We will exchange information with these agencies in line with our responsibilities under locally agreed information sharing protocols and our statutory duties to share information.

Conflict of Interest and Undue Influence

We will be impartial in carrying out our enforcement duties. Our intention is to regulate and enforce "without fear or favour". The Council has a procedure to deal with conflicts of interest and allegations of undue influence being brought to bear on enforcement decisions. Complaints made in connection with these matters will be investigated using the Council's complaints procedure.

Equalities

We are committed to fair and objective enforcement and to enhancing good community relations. This policy will be applied in a non-discriminatory manner. An Equalities Impact Assessment has been carried out as part of the approval process and equalities issues will be monitored and reported to senior management periodically.

Implementation

This policy covers the roles of officers in providing a regulatory framework and in taking enforcement action linked to this framework. The policy covers actions up to the point of hand-over to the judicial (court) or quasi-judicial (e.g. Licensing Panel, Planning Committee) process. Where these quasi-judicial processes involve Council Members, we will ensure clear separation of roles between the regulation, investigatory and enforcement roles.

Review

This policy will be reviewed after 5 years or if there is a substantive change to underlying legislation which impacts on the operation of the policy.

DISCUSSION DOCUMENT 2:- Corporate Enforcement Guidance/Protocol

This guidance document is intended to provide operational guidance on the application of the council's Corporate Enforcement Policy. This guidance should be read in conjunction with the most up to date version of the policy.

Policy statement

The Council is committed to providing a speedy, robust and proportionate, regulation and enforcement system for the issues which we are responsible for. When we are carrying out enforcement activity, we will do so fairly, in accordance with a nationally recognised set of principles, and by officers who are competent, suitably experienced and appropriately authorised to carry out this important work.

In delivering effective regulation and enforcement, we will be proportionate, transparent, fair and effective, working at the lowest possible level to help individuals and businesses comply with the law and the associated regulatory guidance.

Scope

The corporate enforcement policy covers the following service areas.

- Animal Health and Welfare, including dog control
- Animal licensing
- Community Safety, including Anti-Social Behaviour and Enviro-Crime
- Environmental Health, including food safety, pollution control, nuisance
- Health and Safety
- Licensing, including personal, premises and event licences, Hackney carriage and private hire regulation
- Planning and Development Management
- Waste collection and disposal

This is intended to be an indicative rather than an exhaustive list and will be subject to change over time should the Council's regulatory responsibilities change in the light of legislation, statutory guidance or case law.

The policy covers all incidents, accidents, activities, actions or acts of omission by individuals, organisations or businesses which are in breach of the letter or spirit of current legislation and which have the potential, if unchecked, to result in legal action.

The policy does not cover the following services:

- Off-street parking
- Fraud
- Benefits issues

The policy does not cover offences which are outside the regulatory scope of the District Council.

Response to Complaint or Service Request

Initial screening

All complaints received will be subject to an initial screening which will highlight cases which require a high priority response. This initial screening will identify the most appropriate service and officer

to lead and manage the Council response. This will be particularly important in cases which require input from more than one service.

Standards for response

Cases not requiring a high priority response will be dealt with in line with standard service targets, generally acknowledging a complaint and, if appropriate, starting an investigation within 10 working days.

A high priority will normally be given to cases where providing a standard response would endanger the public or stop a serious offence or breach of regulation being committed. The aim is to attend as soon as an appropriate officer is available and start an investigation into these cases within one working day.

Examples of cases requiring a high priority response would include:- situations placing the public in imminent danger; public health incidents; food safety incidents; incidents requiring a response under the council's emergency planning arrangements; reports of works being carried out to listed buildings or trees subject to preservation orders.

Investigation and Enforcement

Principles

Investigations and enforcement, where required, will be proportionate and transparent.

The privacy and confidentiality of individuals making complaints will be respected.

The broad process of investigation and enforcement is summarised in the model contained in this document, attached at Appendix 1. This model describes a process of fact-finding, followed by a spectrum of options for achieving compliance or, where appropriate, delivering enforcement.

In summary, the model outlines two levels of activity:- investigation/informal action; and formal action. Working through a spectrum of options, the model outlines 5 stages of investigation, informal action and formal enforcement activity. Each of the stages contains a number of options which may be selected as appropriate, following consideration of the specific circumstances.

The model presents a range of possible offences/issues and describes a generalised enforcement progression which can be followed in order either to gain compliance or take proportionate enforcement action. The steps shown are not necessarily a strict progression as, in many cases, several options exist at any given point and the model shows the range of options.

All complaints will be resolved at the lowest level/stage which is consistent with the severity and/or likely impact of the issue being considered.

All complaints will receive an initial assessment to determine whether an investigation is required and, if so, the most appropriate service and officer to lead the response.

All complaints passing initial assessment will be subject to Stage 1 (Fact Finding) in order to establish the circumstances and background.

Officers should be clear with individuals and companies involved in breaches and should communicate, as a minimum, the following information:

- The nature of the breach being considered
- Whether this is a statutory issue or whether guidance on best practice is being given
- What actions are required to correct the breach, if this is being allowed
- What enforcement actions are being taken, if this is the case
- The timetable for compliance to be achieved, or for the next stage in enforcement being taken
- If a “next step” is planned, what this is and when it will take place.

If the fact finding indicates that a breach is taking place or a regulatory issue exists, the case will generally escalate to Stage 2 (Officer Liaison) in order to seek resolution. This may involve working to achieve compliance informally or via education.

If this is the case, officers should consider serving notice to require details of individuals and companies connected with the breach at an early stage so that a lack of this information does not delay later enforcement, should this be required.

If the impact or severity of the issue warrants it, there can be immediate escalation to Stage 3 (Formal Process), Stage 4 (Quasi-Judicial Process), or Stage 5 (Judicial Process).

The model shows the following guidance for each of the offence types listed:

- The expected response (standard, urgent, or referral to another agency if the issues is not in the scope of the council’s powers);
- The expected first level of engagement, considering the impact/severity of the offence type;
- The expected follow-up process in the event that the initial engagement does not achieve an appropriate outcome;
- Actions which would not normally be considered appropriate (shaded out on model)

Follow up actions may fall within the same level, or be at an escalated level, as appropriate to the specific circumstances. For example, Advice Letter and Written Warning are both aspects of Officer Liaison but the warning could be an appropriate follow-up step if advice does not achieve the desired outcome.

Some breaches may be considered relatively minor but warrant a relatively severe initial action due to the combination of severity/impact/background. For example, littering may warrant the immediate issuing of a Fixed Penalty Notice (FPN) because it occurs in an area with a history of littering which is protected by a Public Space Protection Order (PSPO). In this case, the issuing and publicising of the PSPO would be viewed as having, in itself, covered the earlier phases of the model. Similarly, an unauthorised advertising hoarding may merit immediate prosecution due to safety or amenity issues.

Some breaches may require referral to, or enforcement by, an external agency (e.g. the Planning Inspectorate, the Environment Agency, the Police). If this is the case, all relevant parties should be informed that this is being carried out.

Factors taken into consideration

When deciding the most appropriate enforcement method, the full circumstances of each individual case should be considered, including:

- The seriousness of the situation;
- The circumstances of the case and the likelihood of recurrence;
- Mitigation or circumstances which need to be considered, e.g. Disability;
- The different options for achieving compliance with the relevant law;

- The level of risk to the public and the environment;
- Any relevant previous history of the offender or location, including the existence of existing control measures, e.g. conservation area, area subject to public space protection order;
- The likelihood of achieving a satisfactory outcome, including deterring further offending;
- Any relevant precedents;
- The attitude of the offender;
- Legal imperatives, e.g. statutory requirements to follow a particular process;
- Relevant guidance;
- The availability of admissible evidence;
- The prevalence of the offence locally or nationally;
- The public interest.

Authorisation of enforcement and escalation

Actions in Stages 1, 2 and 3 can be carried out at the discretion of appropriately authorised officers.

Head of Service authorisation and formal legal advice is required for all cases proceeding to Stages 4 or 5. [check who can authorise quasi-judicial or judicial actions in Planning]

Authorisation for exceptions

In cases where the model indicates that the appropriate action would fall in Stage 4 or 5 and the investigating officer wishes to carry out enforcement action at a lower stage, this must be authorised by a Head of Service.

Illegal evictions	<i>On receipt</i>		1			x			x									x		
Empty properties	<i>On receipt</i>	5				x			x									x		
Caravan site- operation without licence	<i>On receipt</i>	5						x	x									x		
Caravan site- breach of conditions	<i>On receipt</i>	5				x			x									x		
Activities regulated by Licencing Act 2003																				
Operating without licence	<i>On receipt</i>	5				x	x		x									x		
Breach of licence conditions	<i>On receipt</i>	5				x	x		x									x		
Conduct of licensee	<i>On receipt</i>	5				x	x		x									x		
Serious Crime linked to licensable activity	<i>On receipt</i>							x												
Licensing- other than under Licencing Act 2003																				
Operating without licence	<i>On receipt</i>	5				x	x		x									x		
Breach of Conditions	<i>On receipt</i>	5				x	x		x									x		
Conduct of the Operator	<i>On receipt</i>	5				x	x		x									x		
Serious Crime linked to licensable activity	<i>On receipt</i>							x												
Taxi and Private Hire																				
Operating without licence	<i>On receipt</i>	5				x	x		x									x		
Breach of licence conditions	<i>On receipt</i>	5				x	x		x									x		
Vehicle condition requirements	<i>On receipt</i>		1															x		
Conduct of operator	<i>On receipt</i>																			
Food Hygiene																				
Operating without registration	<i>On receipt</i>	5				x	x		x									x		
Operating without approval	<i>On receipt</i>		1			x	x		x									x		
Contraventions of hygiene legislation	<i>On receipt</i>		1			x	x											x		
Health and Safety- Local Authority enforced																				
Contravention of legislation	<i>On receipt</i>	5	1	x		x	x		x	x								x	Response proportionate to incident	
Public Health																				
Infectious disease control	<i>On receipt</i>		1															x		
Planning																				
Unauthorised development likely to cause a serious risk to health and safety , e.g. <ul style="list-style-type: none"> • traffic hazards • causing pollution or on contaminated land • at risk of or causing flooding 	<i>On receipt</i>	10	1 or 3						x	x	x							x	x	x

<p>Unauthorised development likely to cause significant harm to amenity, health and safety or the environment; the integrity of planning decision-making; public acceptance of decision-making, e.g.</p> <ul style="list-style-type: none"> building work that is unlikely to be given approval without significant modification unauthorised uses causing serious loss of amenity through noise or smells 	<i>On receipt</i>	10	1 or 3				x	x	x	x								x	x	
<p>Unauthorised development likely to cause less than significant harm, e.g.</p> <ul style="list-style-type: none"> building work that may require modification uses that may require restriction 	<i>On receipt</i>	10				x	x	x	x	x								x	x	
<p>(Unauthorised development types which can fall into any the above categories for action)</p> <ul style="list-style-type: none"> creation of vehicle and pedestrian access means of enclosure (gates, walls, fences etc.) engineering operations works other than buildings) commercial extensions commercial outbuildings domestic extensions domestic outbuildings satellite dishes and aerials development not in accordance with approved plans breach of planning conditions material change of use (to uses including commercial, residential and houses in multiple occupation) businesses operating at residential properties residential caravans (including gypsies and travellers) 																				
<p>Buildings or land detrimental to amenity</p>	<i>On receipt</i>	10			x	x		x	x	x	x		x					x	x	
<p>Demolition of a protected building (listed buildings)</p>	<i>On receipt</i>		1				x	x	x	x		x				x	x	x		Possible immediate offence

Alterations to a protected building (listed buildings)	<i>On receipt</i>		3				x	x	x	x			x			x	x	x	Possible immediate offence
Loss of or damage to protected trees (trees with a Tree Preservation Order and trees in Conservation Areas)	<i>On receipt</i>		1				x	x	x	x			x				x	x	Possible immediate offence
Display of unauthorised advertisements	<i>On receipt</i>	10					x	x	x	x			x				x	x	Possible immediate offence
Flyposting	<i>On receipt</i>	10					x	x	x	x	x		x				x	x	Power to remove or obliterate offence
Conservation areas – unauthorised demolition	<i>On receipt</i>		1				x	x	x	x			x				x	x	Possible immediate offence
Conservation areas – unauthorised work to trees	<i>On receipt</i>		1				x	x	x	x			x				x	x	Possible immediate offence
Protected trees (unauthorised cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of a tree subject to a Tree Preservation Order)	<i>On receipt</i>		1				x	x	x	x			x				x	x	Possible immediate offence

Notes:-

Corporate response standard is 10 working days

Where more than one response is shown at a given stage, this indicates that these are available options, NOT that each should be followed in sequence. More than one response can be provided out at any stage and these may be sequential.

*References to offences being dealt with by Committee may mean being dealt with by Tribunal for certain Housing offences

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Abbreviations used:-

CPN Community Protection Notice

CPW Community Protection Warning

FPN Fixed Penalty Notice

PSPO Public Space protection Order

HMO House in Multiple Occupation

DRAFT

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DRAFT MINUTE FROM OVERVIEW AND SCRUTINY PANEL (COMMUNITIES AND ENVIRONMENT) – 9th January 2018

CORPORATE ENFORCEMENT POLICY

With the aid of a report by the Head of Community (a copy of which is appended in the Minute Book), the Corporate Enforcement Policy was presented to the Panel.

Members were given a brief introduction to the report and were informed that the Policy will outline a number of regulations that individuals and business are required to adhere to and states the sanctions if they are breached.

Following the introduction of the report, the Panel stated that they welcomed the approach of working across services. A Member added that they would like the Policy to specifically mention fly posting, unauthorised A Boards and Estate Agent signs. In response, Members were informed that the offences mentioned could be included as part of environment crime, although the Council has to balance what offences are a priority.

In response to a question regarding the handling of a fly tipping report by the Call Centre, the Panel was informed that the report would be forwarded to two departments, one to enforce and the other to clear up. The matrix within the Policy defines which department is responsible to respond.

Following a question on how the Council would enforce the Policy, the Panel was informed that ensuring that it is enforced consistently is important. The Policy has to be concise and understandable to residents and businesses. It also needs to be an effective deterrent. Members were informed that public reporting is crucial to the success of the Policy and publicising the Council's successful enforcement is important for public confidence in the Policy and the Council.

In response to a question about collaboration with other local authorities, in regards to persistence offenders, the Panel was informed that where possible the Council does share information with other local authorities however it is not a systemic as it could be.

Following a question regarding abandoned vehicles it was clarified that a report of an abandoned vehicle would be responded to within three days but it wouldn't necessarily be removed.

The Panel commended the Policy and stated that the Policy is what is expected but urged that the Policy specifically states the offences of fly posting, unauthorised A Boards and Estate Agent signs.

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**DRAFT MINUTE FROM DEVELOPMENT MANAGEMENT COMMITTEE – 18th January
2018**

CORPORATE ENFORCEMENT POLICY

With the aid of a report by the Head of Community (a copy of which is appended in the Minute Book) the Committee gave consideration to proposed terms of a Corporate Enforcement Policy. The Policy would apply to regulatory services with the Community Services and Development Services sections and identified the other organisations to which the Council would refer some enforcement matters.

Having been acquainted with the deliberations of the Overview and Scrutiny Panel (Communities and Environment), Members stressed the importance of the Cambridgeshire District Councils working in partnership to achieve consistent enforcement standards. It was pointed out that the different political contexts at the other Districts meant their priorities differed, however they had all signed the enforcement concordat. The Policy would be shared with the Council's Shared Service partners.

In response to a question by a Member, it was confirmed that all potential courses of enforcement action would be accounted for in the Policy. The aim was to resolve matters as quickly and simply as possible. Following a further question by a Member on resourcing of the Policy, the Committee was informed that the Policy was intended to set down the current level of enforcement so no additional resources would be required. The Policy would enable better decisions to be taken on future changes to enforcement activities.

It was suggested that the Policy should include timescales in which it could be expected that enforcement action would be completed. Examples and flowcharts for various enforcement processes would be added to the Policy. It was further suggested that monitoring of processes, effectiveness and timescales of activities covered by the Policy should be undertaken and reported to Members. Members were informed that the Policy would inform Officers' performance targets and future reviews of the Corporate Plan. In addition, from April Officers would be working with colleagues at other Cambridgeshire authorities, including sharing best practice, learning from experience and ensuring common approaches were taken where action crossed boundaries.

RESOLVED

that subject to the comments made, the Corporate Enforcement Policy be endorsed.

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Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Subject Matter: LICENSING SUB COMMITTEES

Meeting/Date: Licensing Committee – 7 February 2018

Executive Portfolio: Councillor A Dickinson– Executive Councillor for Community Resilience, Well-Being and Regulatory Services.

Report by: Elections and Democratic Services Manager.

1. INTRODUCTION

- 1.1 The Licensing Sub Committee comprising three Members of the Licensing and Committee is convened when necessary to determine such matters which have been delegated to it in accordance with the Licensing Act 2003. Below is a summary of the meetings that have taken place since the last meeting of the Committee. Full copies of the Hearing Records are available on request.

Meeting Date	Chairman	Application	Determination
14 August 2017	S Criswell	Application for a new premises licence by Petrogas Group for Spaldwick Service Station, High Street, Spaldwick PE28 0TD	The Sub-Committee agreed to grant the application as applied for and to impose the conditions contained in Section 18 of the application form.
14 September 2017	R West	Application to vary a premises licence for the Tap Room, 23 Bridge Street, St Ives PE27 5EH	The Sub-Committee agreed to the additional hour, Thursday to Saturday for the sale of alcohol from 01.00 to 02.00 and the seasonal variations. The request for music was not granted.
31 October 2017	S Criswell	Application for a premises licence for 12 London Road, Wansford PE8 6JB	The Sub-Committee agreed to grant the licence for the hours and activities requested, subject to the inclusion of the Police conditions and two further conditions.

12 S Criswell Application for a The Sub-Committee
January premises licence for agreed to grant the
2018 the Event Field, Rear licence as applied for,
of the three with the inclusion of the
Horseshoes, Main conditions
Street, Yaxley PE7 recommended by the
3LD Police and those
conditions
recommended
Environmental Health.

2. RECOMMENDATION

2.1 The Committee are invited to note the above information.

BACKGROUND PAPERS

Agenda, Reports and Records of Licensing Sub Committee meetings held in the Corporate Office.

Contact Officer: Mrs C Bulman, Democratic Services - ☎ 01480 388234.