

ENFORCEMENT POLICIES
(Report by Head of Administration)

1. INTRODUCTION

- 1.1 The purpose of this report is to inform Members that a **Regulators' Compliance Code** has been published by the Department for Business Enterprise & Regulatory Reform (BERR) and will come into effect on 6 April 2008. It extends to a wide variety of regulators and applies to local authorities in respect of many of their enforcement activities, primarily but not exclusively public health, environmental protection and licensing. This is a statutory code of practice and those regulators that are prescribed must have regard to its content. The new code can be viewed at http://bre.berr.gov.uk/regulation/documents/compliance_code/compliance_code_071217.pdf
- 1.2 The code is based upon the recommendations contained in the Hampton Report commissioned by the Government on "Reducing Administrative Burdens: Effective Inspection and Enforcement" which was published in 2005.
- 1.3 Several of the Council's Divisions are required to have an enforcement policy with some having more than one to meet the specific requirements of national bodies, most notably Environmental and Community Health, which has discrete areas of enforcement such as Food Safety, Private Sector Housing, Health & Safety and Environmental Protection.
- 1.4 The Council's existing enforcement policies are based on the principles contained in an enforcement concordat published by the Local Government Association some years ago. They are comprehensive and should generally comply with the requirements of the new code but each policy will need to be reviewed and updated to ensure compliance.
- 1.5 As the current policies were approved previously by committee or form part of various statements of policy that the Council has to have regard to in complying with its statutory functions, it is proposed that they be reviewed where necessary and approved after consultation with the appropriate executive councillor or committee chairman.

2. BACKGROUND

- 2.1 Section 21 of the Legislative and Regulatory Reform Act 2006 imposes a duty on any person exercising a specified regulatory function to have regard to 5 principles of good regulation. These are defined in the Act to provide for regulatory activities to be carried out in a way that is **transparent, accountable, proportionate and consistent** and for them to be **targeted** only at cases in which action is needed. Section 22 of the Act enables the relevant Minister to

issue a Code of Practice relating to the exercise of regulatory functions (the Regulators' Compliance Code) and places a duty on those exercising specified regulatory functions to have regard to the code when determining enforcement policies. The new code forms a central part of the Government's better regulation agenda with the aim of ensuring a risk-based, proportionate and flexible approach to regulatory inspection and enforcement that allows and encourages economic progress.

2.2 The code stresses the need for regulators to adopt a positive and proactive approach towards ensuring compliance by:

- helping and encouraging those who are regulated to understand and meet regulatory requirements more easily; and
- responding proportionately to regulatory breaches.

3. IMPLICATIONS

3.1 The existing enforcement policies have been designed for the Council to carry out its duties in accordance with its statutory powers and guidance and are already based upon various principles including openness, proportionality, consistency, transparency and targeting. However some changes will be required to ensure that the policies meet the code and extend to all of the Council's regulatory functions.

3.2 Once the code has been implemented, future enforcement action will be constrained by the content of the enforcement policies. Any failure to act in accordance with an adopted policy could be raised in a defence against enforcement action in the courts and complaints about the Council's actions or inaction in carrying out its statutory duties can be pursued under the internal complaints code and with the Local Government Ombudsman.

3.1 There is a general requirement to consult those affected by the adoption of an enforcement policy but this has already been undertaken when the existing policies were formulated. The changes envisaged hopefully should not be extensive and any consultation required will be dealt with electronically through the medium of the Council's website.

4. CONCLUSION

4.1 It will be necessary for relevant Heads of Service to update a range of enforcement policies to reflect the requirements of the new Regulators' Compliance Code which will be undertaken in consultation with the relevant executive councillors and chairmen.

5. RECOMMENDATIONS

5.1 It is

RECOMMENDED

that the Panel/Committee/Cabinet

- (a) note the content of this report; and
- (b) authorise relevant Heads of Service to review their enforcement policies having specific regard to the content of the new Regulators' Compliance Code and to approve any necessary changes after consultation with the relevant executive councillor or chairman;

BACKGROUND INFORMATION

The Legislative and Regulatory Reform Act 2006.
Reducing Administrative Burdens: Effective Inspection and Enforcement,
Philip Hampton, March 2005.
The Regulators' Compliance Code.

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