

STRONG AND SUPPORTIVE COMMUNITIES SCRUTINY COMMITTEE	Agenda Item No. 7
15 OCTOBER 2014	Public Report

Report of the Executive Director of Governance

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COMPLIANCE AND ENFORCEMENT POLICY FOR REGULATORY SERVICES

1. PURPOSE

- 1.1 To present to the Committee the new Compliance and Enforcement Policy for Regulatory Services

2. RECOMMENDATIONS

- 2.1 Members are asked to scrutinise the policy and provide comment or feedback as they consider appropriate.

3. LINKS TO THE SUSTAINABLE COMMUNITY STRATEGY

- 3.1 Peterborough's Regulatory Services are key to helping the economy to thrive, the creation of jobs, the regeneration of neighbourhoods, better health standards, improved environmental conditions, and the protection of the public and businesses from harm. The Compliance and Enforcement Policy is an important document that underpins how we deal with non-compliance with legislation.
- 3.2 The Policy itself supports us carrying out our statutory responsibilities which may include investigating criminal offences. This contributes in particular to the priority of Creating Strong and Supportive Communities through delivering the key outcome of "Making Peterborough Safer" so that people can live, work and play in a prosperous and successful city without undue fear of crime.
- 3.3 The policy also contributes to the strategic priority of Creating Opportunities, Tackling Inequalities, as a key role of our regulatory services team is to protect public health and wellbeing.
- 3.4 The teams also focus on the priority of Delivering Substantial and Truly Sustainable Growth as we work with businesses on a daily basis. The Policy supports this priority by endorsing a flexible and graduated approach to enforcement which in most cases will see us working with and supporting businesses, prosecution being a last resort or reserved for the most serious of cases.

4. BACKGROUND

- 4.1 The work within Regulatory Services is wide ranging and officers in their respective areas will carry out work to educate businesses or the community and try to prevent problems from occurring. However officers do regularly come across non compliances and usually have a legal duty to do something about them. This policy sets out how non-compliances with legal requirements should be responded to.

- 4.2 The Council's regulatory services have had an enforcement policy in place for several years. This policy is not part of the Council's policy framework and was due to be reviewed.
- 4.3 This new Compliance and Enforcement Policy replaces the previous enforcement policy and has been written in accordance with the Regulators' Code which came into statutory effect this year. The code provides a flexible, principles based framework for how we as regulators should engage with those that we regulate. For example: by ensuring our activities support business growth; by engaging with those we regulate and listening to their views and by basing our regulatory activities on risk.
- 4.4 The policy applies to all enforcement practices undertaken by Peterborough City Council Regulatory Services, including trading standards, licensing, taxi licensing, food hygiene, health and safety, environmental and pollution control and statutory nuisance.
- 4.5 The policy will apply to businesses as well as private individuals. For example a decision may be taken to prosecute a business who has sold unsafe or contaminated food. Equally officers may serve a legal notice on an individual who is causing a noise nuisance.
- 4.6 The Council, by adopting and publishing this policy, will demonstrate its commitment to the principles of good regulation and to working with businesses and the community to secure compliance. It creates transparency for all stakeholders as well as supporting the council in its decision making process.

5. KEY ISSUES

- 5.1 The key sections within the policy are highlighted here for your information. Section 4 sets out our approach to dealing with non-compliance and affirms our commitment to dealing firmly with those that deliberately or persistently fail to comply. However we also recognise that every case will need to be considered on its own merit. We commit to ensuring our action is proportionate and that we will follow the principles within key documents such as the Code for Crown Prosecutors.
- 5.2 We recognise that officers have by delegation been authorised to use a range of powers under statute which carry a great deal of weight and responsibility. Section 5 therefore outlines our commitment to ensuring that they are used responsibly and in accordance with the legislation and codes of practice that govern our conduct when carrying out investigations.
- 5.3 Section 6 of the policy outlines the sanctions that are available to us when we are responding to non-compliance and the circumstances in which we may consider using them. These may range from offering informal advice and support through to serving a legal notice or taking a prosecution. The policy recognises the significance of the decision making process and the impact that this may have on people.

6. IMPLICATIONS

- 6.1 There are no known implications associated with this report. An equality impact assessment has been undertaken and no issues were identified.
- 6.2 The policy will take effect city-wide, key stake holders being businesses, residents, and people visiting or working in the city.

7. CONSULTATION

- 7.1 Consultation has taken place with officers in regulatory services and on adoption of the policy, training will be provided to all officers to ensure they are familiar with its provisions.
- 7.2 A cross section of businesses have also been contacted. In particular, businesses were asked:

- a) Is the policy generally easy to understand, and if not how can it be improved?
- b) Does it clearly explain the enforcement sanctions that are available to us as a local authority, and how we may choose the appropriate sanction?
- c) Does the policy demonstrate to you that we try to act fairly and proportionately at all times?
- d) Any other comments

7.3 Consultation is ongoing, but feedback from business to date has been taken on board and incorporated in the policy. Businesses that have responded are generally supportive of the policy and felt it was clear and easy to understand. Other practical suggestions have been incorporated, for example the request to include the services contact details within the policy.

7.4 Consultation is also taking place with representatives of community groups as well as key partners that we work with, including HMRC and Cambridgeshire Constabulary.

7.5 Legal Services have also been consulted and have approved the draft policy.

8. NEXT STEPS

8.1 Any comment or feedback from the committee will be duly considered and incorporated into the Policy.

8.2 The policy will be referred to the appropriate member forum for approval and adoption.

8.3 On implementation, the policy will be communicated to officers and will be published on the Council's website. The policy will be reviewed on a regular basis and amended as appropriate to take into account any changes in legislation.

9. BACKGROUND DOCUMENTS

9.1 The Regulators' Code, published by the Department for Business Innovation and Skills, Better Regulation Delivery Office

10. APPENDICES

10.1 Appendix 1 - Draft Compliance and Enforcement Policy (2014)

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