

CABINET MEMBERS DELEGATED DECISION

Open		Would any decisions proposed :		
Any especially affected Wards	Mandatory/	Be entirely within Cabinet's powers to decide		YES/NO
	Discretionary /	Need to be recommendations to Council		YES/NO
	Operational	Is it a Key Decision		YES/NO
Lead Member: Cllr Paul Kunes E-mail: <i>cllr.paul.kunes@west-norfolk.gov.uk</i>		Other Cabinet Members consulted: Cllr Stuart Dark		
		Other Members consulted: Cllr Paul Kunes		
Lead Officer: Mark Whitmore E-mail: <i>mark.whitmore@west-norfolk.gov.uk</i> Direct Dial:01553 616654		Other Officers consulted: Geoff Hall, Debbie Gates, John Greenhalgh, Stuart Ashworth, Martin Chisholm, Dave Robson, Vicki Hopps, Matthew Clarey, Joanne Stanton		
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications YES	Equal Impact Assessment YES/ NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/ NO
Date meeting advertised: 8 th February 2022		Date of meeting decision to be taken: 15 th February 2022		
Deadline for Call-In: 22 nd February 2022				

ENSURING CONSISTENT ENFORCEMENT

Summary

The primary role of the regulatory services within the Council is to ensure the wellbeing and safety of visitors and residents within the Borough and to protect the environment and property from any adverse effects from industries or developments through business support and regulation where necessary.

This report seeks the approval of the amendments to the Corporate Enforcement Policy to demonstrate sensible and rational enforcement.

It was previously agreed at Council that any administrative changes could be completed in agreement with the Portfolio Holder and head of legal services.

Recommendation

That the Corporate Enforcement Policy be adopted.

Reason for Decision

To ensure that the Council is seen to be taking a sensible, risk based approach to regulation. To demonstrate that any enforcement action required is applied in a fair and consistent manner to reduce the regulatory burden on businesses and individuals.

1 Enforcement Activity

- 1.1. The Council carries out a wide range of regulatory activity across its services. These activities come from primary and secondary legislation and are delegated to officers through the Council's Scheme of Delegation.
- 1.2. The majority of individuals and businesses affected by regulatory activity cooperate fully with the Council and are dealt with relatively informally. Where this is not the case it is necessary and appropriate, for the protection of the public or environment, that enforcement action is taken where appropriate. It is important that all such action is governed by sensible principles in order that the Council is seen to be acting properly by the individuals or businesses affected and also by the courts or Local Government Ombudsman.
- 1.3. Formal enforcement is an inevitable part of the work of the regulatory services within the Council but nonetheless needs to be carried out in an appropriate manner.
- 1.4. All actions are subject to rigorous procedural safeguards and requirements laid down in statute, guidance and local procedures.

2. Enforcement Principles

2.1. The basic principles of enforcement activity and the principles of good regulation are outlined in a statutory code of practice, the "Regulators Compliance Code", given statutory effect by the Legislative and Regulatory Reform Act 2006, which places a duty on regulators to have regard to five 'Principles of Good Regulation'. The code of practice was issued on 17th December 2007 and came into force on 6th April 2008.

2.2. These principles are:

- Transparency;
- Accountability;
- Proportionality;
- Consistency; and
- Targeted only at cases for which action is needed

3. Corporate Enforcement Policy

- 3.1. The existing enforcement policy was updated in 2017 to incorporate the various enforcement and regulatory activity that the Council carries out.
- 3.2. The new policy has been reviewed and changes made to better reflect an increased use in Fixed Penalties and Civil Penalties contained within new and amended legislation and ensure that the Council's priorities are specifically covered within the decision making process.

3.3. At the Council meeting on 26th September 2013 it was agreed that any administrative changes to the Policy could be agreed by the relevant portfolio holder and the Head of Legal Services so this report and attached Policy may be agreed in absence of a Full Council meeting.

4. Proposal

4.1. That the Enforcement Policy attached in Appendix 1 is approved.

5. Resource

5.1. There is no increase in resource as a result of the update of this policy.

5.2. It should be noted that where council policy or increase in regulatory burden (such as those seen from Brexit and Covid) this will impact on service delivery if not properly resourced.

6. Personnel

6.1. None

7. Financial Considerations

7.1. None

8. Risk Assessment

8.1. The Council has the responsibility to ensure that any enforcement action taken is in line with the five principles of good regulation.

8.2. By not adopting an enforcement policy, which details the way in which the authority will carry out enforcement duties, the authority may be criticised where enforcement action is taken which could ultimately bias any case against the authority.

9. Policy Implications

9.1. The Enforcement Policy is a policy document that should be adopted by the Council

10. Statutory Considerations

10.1. The Council has a duty to carry out its enforcement functions under various legislation and to comply with the obligations set out in the Enforcement Concordat and Regulators Compliance Code. Having a formally approved Enforcement Policy in place demonstrates that the Council is meeting its obligations.



Pre-Screening Equality Impact Assessment

Name of policy/service/function	Corporate Enforcement Policy				
Is this a new or existing policy/ service/function?	Existing				
Brief summary/description of the main aims of the policy/service/function being screened. Please state if this policy/service rigidly constrained by statutory obligations	Update of the existing corporate enforcement policy				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			x	
	Disability			x	
	Gender			x	
	Gender Re-assignment			x	
	Marriage/civil partnership			x	
	Pregnancy & maternity			x	
	Race			x	
	Religion or belief			x	
	Sexual orientation			x	
	Other (eg low income)			x	
Question	Answer	Comments			
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	No				
3. Could this policy/service be perceived as impacting on communities differently?	No				
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	No				
<p>5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions? If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section</p>	No	Actions: none			
		Actions agreed by EWG member:			
Assessment completed by: Name	Mark Whitmore				
Job title Environmental Health Manager, Community & Partnerships	Date 9/12/21				

Please Note: If there are any positive or negative impacts identified in question 1, or there any 'yes' responses to questions 2 – 4 a full impact assessment will be required.