

CABINET MEETING

Agenda Item 91

Brighton & Hove City Council

Subject:	Corporate Enforcement Policy		
Date of Meeting:	16 October 2008		
Report of:	Director of Environment		
Contact Officer:	Name:	John Peerless	Tel: 292486
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Key Decision:	Yes	Forward Plan No. CAB2379	
Wards Affected:	All		

FOR GENERAL RELEASE.

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The purpose of this report is to apprise Cabinet of the outcome of consultation with businesses, the public and other stakeholders on the draft Corporate Enforcement Policy which was presented to Policy & Resources committee in February this year.
- 1.2 To seek approval for the amended Policy to be published and endorse its implementation by all sections with an enforcement role in the Council.
- 1.3 In line with the Council's priority of fair enforcement of the law this policy would commit the Council to best enforcement practice and procedures by setting out what can be expected from its enforcement teams and their officers.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet approve the revised Corporate Enforcement Policy and authorise its implementation by all enforcement sections in the Council.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS.

- 3.1 The Council has always prided itself on its record for taking a fair and consistent approach in any enforcement action taken against individuals or businesses who have transgressed relevant legislation that we administer.
- 3.2 We were one of the first Council's to sign up to Enforcement Concordat, but whilst most of our regulators have developed their own Enforcement or Prosecution Policy or procedures there has never been a Corporate Enforcement Policy that has been endorsed by members.
- 3.3 Fair and consistent enforcement is a key priority for this administration and it is felt that it is time that officers are given clear direction on this issue. Furthermore on 6 April 2008 the statutory Regulators' Compliance Code for specified functions, including Trading Standards and Environmental Health, came into force.

- 3.4 This code asks regulators to perform their duties in a business-friendly way, by planning regulatory activity in a way that causes least disruption to the economy.
- 3.5 The Code was drafted in response to the Hampton Review of the UK's regulatory system, which proposed the principles of better regulation based on a risk-based approach and proportionality to regulatory enforcement.
- 3.6 Whilst specifically aimed at Trading Standards and Environmental Health the guiding principles of the Code are applicable to all of our regulators because they promote openness, fairness, proportionality and consistency.
- 3.7 A draft Policy was presented to Policy & Resources in February this year. The Committee endorsed the introduction of a Corporate Policy and agreed to its implementation following wider consultation with businesses, the public and other stakeholders.

4. CONSULTATION

- 4.1 The following stakeholders have been consulted
- All 'enforcement sections' in the council
 - Local business associations and individual businesses
 - The public (via the website)
 - Other enforcement agencies including Sussex Police and neighbouring authorities.
- 4.2 There were only a few responses which related to
- Concerns over the use of the term 'corporate' as the businesses felt it could be seen that the policy was only aimed at corporate entities.
 - Clarification that enforcement action would be taken against individual members of the public.
 - Concerns that enforcement agencies appear to target less serious matters because they are easier to deal with.
 - The lack of a response times for acknowledging enquiries, and the reporting of the progress of subsequent investigations.
 - Lack of consistency between different sections when taking enforcement action.
- 4.3 Individual responses have been made where requested and the above concerns taken into account in the revision of the document.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications from approving the revised Corporate Enforcement Policy

Finance Officer Consulted: Patrick Rice Date: 12 September 2008

Legal Implications:

- 5.2 If implemented, the Enforcement Policy will assist the Council in meeting its duty under section 6 of the Human Rights Act 1988 not to act in a way which is incompatible with a Convention Right..

Lawyer Consulted: Liz Woodley Date: 12 September 2008

Equalities Implications:

- 5.3 A Rapid Impact Assessment has been carried out and identified that proper implementation of the principles of this policy would have a positive impact. There may be a perception of certain communities that enforcement activity is disproportionately targeted at them. This perception can be mitigated through consistent application, monitoring and regular review of enforcement activities.

Sustainability Implications:

- 5.4 There are no sustainability implications.

Crime & Disorder Implications:

- 5.5 The policy directs regulators to consider targeted and proportionate action against those that persistently breach the legislation so should assist in the prevention of crime and disorder.

Risk & Opportunity Management Implications:

- 5.6 The Policy can be used as a tool to assist in risk assessments.

Corporate / Citywide Implications:

- 5.7 Regulators that actively promote economic progress and prosperity through a light touch approach will enhance the reputation of the city.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Consideration was given to the maintaining the status quo but such action could lead to an inconsistent approach to enforcement activity.
- 6.2 Environmental Health and Trading Standards could be asked to develop, publish and implement a service specific policy as required by the Compliance Code. However this could also lead to inconsistencies and this approach lacks openness and transparency.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 The proper implementation of the Policy will help the Council achieve its objective to have fair law enforcement across all regulatory services.

SUPPORTING DOCUMENTATION

Appendices:

- 1. Revised Corporate Policy
- 2. Draft Policy

Documents in Members' Rooms

- 1. Policy & Resources Committee Report 7 February 2008

Background Documents

- 1. The Regulators Compliance Code
- 2. Cabinet Office Enforcement Concordat
- 3. Hampton Review
- 4. Macrory Report (Penalties & Sanctions)