

Agenda Item No: 9.2 **Report No:** 2/17

Report Title: Regulatory Services Enforcement Policy and Services Standards

Report To: Cabinet **Date:** 4 January 2017

Lead Councillor: Councillor Paul Franklin

Ward(s) Affected: All

Report By: Ian Fitzpatrick - Director of Service Delivery

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Purpose of Report:

To consider the draft Regulatory Services Enforcement Policy and Service Standards for all Environmental Health and Licensing functions at Lewes District Council.

Officers Recommendations:

That Cabinet recommend that full Council–

1. approve Lewes District Council's draft Regulatory Services Enforcement Policy set out in Appendix 1; and its Service Standards for Environmental Health and Licensing functions set out in Appendix 2.
 2. delegate authority to the Director Service Delivery to agree and implement the final Regulatory Services Enforcement Policy and Service Standards for Environmental Health and Licensing functions, after consultation and after consolidation of the Council's existing Environmental Health Enforcement Policy.
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Reasons for Recommendations

Local authorities are required by the Regulators' Code to publish an enforcement policy ("the Policy") together with service standards explaining how they respond to non-compliance. The Policy is an important document for regulators in meeting their responsibility under statutory principles of good regulation. It should provide a clear, flexible and principles-based framework for how the local authority engage with those they regulate.

1 Information

- 1.1 The Regulators' Code came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006, replacing the Regulators'

Compliance Code. All local authorities must have regard to it when developing policies and procedures that guide their regulatory activities.

- 1.2 The Code is underpinned by the statutory principles of good regulation, which state that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
- 1.3 In this context the term 'Regulatory Services' covers Environmental Health and Licensing Functions and specifically the following areas of work:
 - Pollution
 - Food
 - Health and Safety
 - Private Sector Housing
 - Licensing – premises, taxi and private hire, gambling and ancillary functions
- 1.4 The primary aim of the Regulatory Services function is to protect public health. This is done by ensuring compliance with the legislative framework so that consumers, businesses, employees, individuals and the environment are protected. Fair, proportionate, targeted and effective enforcement is essential in protecting the health, safety and economic interests of all concerned, and there is a range of tools available to the service to achieve this.
- 1.5 Prevention is better than cure, therefore we actively work with businesses and the public to advise on and assist with compliance. Where we consider that formal action is necessary, each case will be considered on its own merits by taking a proportionate approach. The detail on how and when action may be taken is outlined in section 5 of the Policy.
- 1.6 The instigation of legal proceedings will be taken by an authorised manager using the criteria set out in section 6 of the Policy as well as the Code for Crown Prosecutors.

2.0 Shared services

- 2.1 Environmental Health Officers (EHO's) and specialists in Lewes and Eastbourne have been authorised to carry out statutory functions in both councils in the areas of Food Safety, Health and Safety, and Public Health. This is providing resilience for the services across both councils, sharing and developing best practice.
- 2.2 Eastbourne Borough Council adopted their Regulatory Services Enforcement Policy in September 2015 and it has been identified that, to enable both Lewes and Eastbourne to provide a consistent service within our regulatory statutory functions, a joint policy is required.
- 2.3 An Environmental Health Enforcement Policy for LDC written in 2011 still exists, is broadly compliant with the Regulators' Code and will be reviewed against the new Regulatory Services Enforcement Policy to incorporate, where appropriate, specific enforcement details of the individual service at Lewes

District Council. This has already been done for Food Safety and Private Sector Housing which are attached to the end of the Policy.

3.0 Consultation

Consultation will take place with representatives prior to the Policy and Service Standards being adopted by the Council. The groups identified so far are the Chamber of Commerce in Lewes, Newhaven and Peacehaven & Seaford, Lewes Women in Business, Lewes District branch of the Federation of Small businesses, the National Landlords Association and the South East Local Enterprise Partnership.

4.0 Financial Appraisal

- 4.1 The resources required for the implementation of the Regulatory Services Enforcement Policy are contained within the existing Environmental Health revenue budget.

5.0 Legal Implications

- 5.1 Approval of regulatory policies relating to the functions referred to in paragraph 1.3 above may only be given by full Council. It is standard practice that policies of this type be considered first by Cabinet and referred to full Council with a recommendation for approval.

Lawyer consulted: OD – 6.12.16. 005860-LDC-OD

6.0 Risk Management Implications

- 6.1 I have completed the risk assessment (LDC65033), the following risk will arise if the recommendations are not implemented:

(i) EHO's working across both Authorities will not deliver a consistent enforcement approach in respect to our statutory regulatory services and maybe subject to criticism from the Better Regulation Delivery Office.

No new risks will arise if the recommendations are implemented. The Council must have a current enforcement policy that is transparent, accountable, proportionate and consistent

7.0 Equality Screening

- 7.1 On 17th November an Equality Analysis was undertaken on the Regulatory Services Enforcement Policy for Environmental Health and Licensing functions at Lewes District Council due regard was given to the general equalities duties and to the likely impact of the policy on people with protected characteristics, as set out in the Equality Act 2010.

- 7.2 The assessment identified the policy was found to have positive outcomes for all Businesses in our district, however minor adjustment is required. There are missed opportunities especially in the area of equalities monitoring and customer feedback. Actions have been identified to remove barriers and better

promote equality. The Equalities Analysis action plan will be incorporated and monitored within the service/project plan.

8.0 Background Papers

<https://www.gov.uk/government/publications/regulators-code>

https://www.cps.gov.uk/publications/code_for_crown_prosecutors/

9.0 Appendices

Appendix 1 – The draft Regulatory Services Enforcement Policy

Appendix 2 – The draft Service Standards for Environmental Health and Licensing Functions