

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director of Enterprise, Tourism and the Environment

To

Cabinet

On

15th March 2011

Report prepared by:
Dipti Patel - Head of Public Protection

Regulatory Services Enforcement Policy Report

Executive Councillor (Public Protection & Waste): Councillor Tony Cox
A Part 1 Public Agenda item.

1. Purpose of Report

This report seeks approval for Southend-on-Sea Borough Council to adopt the Regulatory Services Enforcement Policy 'the Policy'.

2. Recommendation

- 2.1 That the Regulatory Services Enforcement Policy attached as Appendix 1 be agreed.
- 2.2 That the policy be updated where there are significant changes to the legislation.

3. Background

- 3.1 The Policy sets out the principles which the Regulatory Services operate to protect and promote public health, safety, consumer protection and the environment within Southend-on-Sea Borough Council. Regulatory Services includes Environmental Health, Trading Standards and Licensing. This policy does not cover any other services such as Planning and Private Sector Housing.
- 3.2 The service enforces a wide range of legislation that aims to protect the interest and rights of people in relation to the environment that they use. The enforcement of this legislation enables the Council to achieve its' priorities contained in the Corporate Plan and its' statutory responsibilities.

The policy adopts the Central and Local Government Concordat on Good Enforcement, the provisions contained in the Legislative and Regulatory Reform Act 2006 and the Regulators' Compliance Code.

3.3 The Regulatory Enforcement and Sanctions Act 2008 established the Local Better Regulation Office (LBRO) which imposed a duty on Regulatory Services to:-

- have regard to any guidance given to a Local Authority by LBRO;
- comply with guidance where directed to do so by LBRO; and
- have regard to any list of enforcement priorities published by LBRO.

3.4 The Legislative and Regulatory Reform Act 2006 requires Regulators to have regard to the Principles of Good Regulation. This means that our regulatory activities should be carried out in a way that is proportionate, accountable, consistent, transparent, and targeted to situations that need action when we carry out a regulatory function and to have regard to guidance issued.

3.5 The Statutory Code of Practice for Regulators (17th December 2007) contains details of how this should be carried out. It specifically requires that activities should be carried out:

- in accordance with Hampton Principles, (to concentrate resources on areas of highest risk and to reduce the burden on businesses through provision of advice, inspecting only where necessary and increasing effectiveness and efficiency of regulators)
- that Regulators publish an enforcement policy; and
- Regulators consult and involve regulated entities and other interested parties in designing their risk methodologies.

3.6 The Regulatory Services Enforcement Policy also sets out compliance with procedural issues relating to enforcement activities and sets out practices in relation to:

- Setting standards for delivering the service
- Targeting resources to those activities that give rise to the greatest risk
- Being open in how the legislation is enforced
- Being helpful in approach providing clear advice and co-ordinate where necessary
- Giving feedback about the service provided
- Requirements being proportionate to the risk that any breaches in legislation represents
- Having a consistent approach, duties being carried out in a fair, non-discriminatory way

4 Other Options

Southend-on-Sea Borough Council must publish an enforcement Policy.

5. Reasons for Recommendation

5.1 There is a legal requirement to publish an enforcement policy for Regulators which takes into account legislation and centrally issued guidance on enforcement activities. The Regulatory Services Enforcement Policy has been prepared taking into account both the legislation and centrally issued guidance.

5.2 The Regulatory Services Enforcement Policy has been subject to a formal consultation process, of both regulated entities and other interested parties as required by the statutory code of practice for regulators.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

Prosperity – through reducing regulatory burdens and assisting businesses to comply

Excellence – efficiency and effectiveness, targeting resources to areas of greatest risk

Healthier- regulating food, health and safety and public health

Safer – contributing to crime and disorder strategy

Greener – reducing impact on environment through permitted processes

6.2 Financial Implications

Finance has been consulted on this report and the policy. There are no financial burdens to the Council on adoption of this policy.

6.3 Legal Implications

Legal Services have been consulted on this report and the policy. This policy complies with centrally issued guidance.

6.4 People Implications

None

6.5 Property Implications

None

6.6 Consultation

In line with the requirement of the Statutory Code of Practice for Regulators a formal consultation was undertaken which asked for feedback on whether the consultees agreed that the policy:

- Set out the standards that could be expected
- Detailed how resources were targeted
- Detailed openly the way in which the legislation is applied
- Was helpful in its approach to assisting businesses to comply
- Was proportional in its approach, taking enforcement action against the most serious breaches and those who consistently fail to comply with legislation
- Undertook work consistently in a fair, non-discriminatory way

and specifically whether those consulted felt there were any other issues that needed to be taken into account in the development of this policy in terms of their particular group

The consultation took place between 5th January 2011 and 5th February 2011 on the website. Letters were sent out to 48 resident and business groups across the Borough. The consultation also included community groups through SAVS and partners regulators through the East of England Trading Standards

Association and the Essex Local Authorities Regulatory Services Partnership. The Council's Enforcement Officers Working Group and Night Time Economy Group were also invited to respond. The consultation also gave the opportunity to request a copy of the policy if required.

The responses received were evaluated and comments incorporated into the policy.

6.7 Equalities and Diversity Implications

An Equalities Impact Assessment was completed for 'the Policy' and an action plan developed.

6.8 Risk Assessment

Hampton Principles requires that Regulators concentrate resources in the areas that need them most. The Regulatory Services Enforcement Policy details in what circumstances will be carried out, concentrating on those areas of highest risk.

6.9 Value for Money

Hampton principles requires that:

- Regulators encourage economic progress and intervene when there is a clear case for protection
- Inspections only take place where there is a reason to do so
- Regulators be accountable for the efficiency and effectiveness of their actions

6.10 Community Safety Implications

Contributes to crime and disorder strategy in outlining our processes and ensuring that enforcement action is successful.

6.11 Environmental Impact

None

7. Background Papers

Statutory Code of Practice for Regulators
Regulatory Enforcement and Sanctions Act 2008
Legislative and Regulatory Reform Act 2006
Hampton Report

8. Appendices

Appendix 1: Regulatory Services Enforcement Policy