

# Southend-on-Sea Borough Council

Agenda  
Item No.

**Report of Corporate Director for Place  
To  
Cabinet  
On  
17<sup>th</sup> March 2015**

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## **The Regulators Code and Regulatory Services Enforcement Policy.**

**Executive Councillor Cllr Assenheim**

**A Part 1 Public Agenda item.**

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### **1. Purpose of Report**

- 1.1 To update the Council of the requirements for regulators of the updated Code of Practice (April 2014) under the Legislative and Regulatory Reform Act 2006 (The Act) and therefore adopt the revised Regulatory Services Enforcement Policy.

### **2. Recommendations**

- 2.1 **The Council adopt the Regulatory Services Enforcement Policy attached at Appendix 1.**

### **3. Background**

- 3.1 The Regulatory Enforcement and Sanctions Act 2008 was 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.

The LBRO was dissolved 1<sup>st</sup> April 2012 with its functions being exercised by the Better Regulation Delivery Office (BRDO) which sits within the Department for Business, Innovation and Skills.

- 3.2 The Legislative and Regulatory Reform Act 2006 requires Local Authorities 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.

The Legislative and Regulatory Reform Act 2006 requires Local Authorities to have regard to the Regulator's Code in determining general policy or principles and in setting standards or giving guidance in relation to the exercise of regulatory functions.

Orders made under section 24(2) of the Legislative and Regulatory Reform Act 2006 details the areas where the Local Authority is required to follow the Regulator's Code.

Where the Code is not applicable or is outweighed by another relevant consideration the Council is not bound to follow that provision but must detail the reasoning behind that decision.

- 3.3 The Regulators Code contains details of how this should be carried out. It specifically requires that Regulators:
- i. Carry out activities in a way that supports those that are regulated to comply and grow
  - ii. Provide simple and straightforward ways to engage with those that are regulated and hear their views
  - iii. Base their regulatory activities on risk
  - iv. Share information about compliance and risk
  - v. Ensure clear information, guidance and advice is available to help those regulated to meet their responsibilities to comply
  - vi. Ensure that their approach to regulatory activities is transparent.

- 3.4 The Council's Regulatory Services Group operates to protect and promote public health, safety, consumer protection and the environment within Southend-on-Sea Borough Council.

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.

- 3.5 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' Code.

The Regulatory Services Enforcement Policy attached at Appendix 1 sets out how the Council complies with the Act and associated Code.

#### **4 Other Options**

None

#### **5. Reasons for Recommendation**

There is a duty for Local Authorities to comply with the Regulatory Enforcement Sanctions Act 2008 and the duties imposed through BRDO.

There is a requirement for the Local Authority to publish an enforcement policy for Regulators within the scope detailed in Orders made under section 24(2) of the Legislative and Regulatory Reform Act 2006, 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.

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**

Local Authorities must adopt the duties in the Regulatory Enforcement Sanctions Act 2008, to provide clear direction in the way that the Regulatory activities are undertaken and have regard to the Codes issued under the Legislative and Regulatory Reform Act 2006. Operation of regulatory duties in accordance with the Regulator's Code will ensure the Council is transparent and fair and will be able to support challenges in the way it operates.

### **6.1 Contribution to Council's Vision & Corporate Priorities**

- Prosperity** – through reducing regulatory burdens and assisting businesses to comply with legislation
- Excellent** – efficiency and effectiveness, targeting resources to areas of greatest risk
- Healthier**- regulating food, health and safety and public health in the environment
- Safer** – contributing to crime and disorder strategy and regulating product safety
- Greener** – reducing impact on environment through regulating emissions to air from industrial processes.

### **6.2 Financial Implications**

There are no financial burdens to the Council on adoption of this policy. Adherence to 'the Policy' will assist businesses through providing guidance and early intervention.

One of the aims of the Regulator's Code is for Regulators to reduce the burden on businesses where it is possible to do so.

### **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**

Adoption of the Regulator Code and the Regulatory Services Enforcement Policy would enable businesses to be satisfied that Regulators are reducing the regulatory burden on businesses by applying the legislation that they enforce in a consistent, transparent and fair way. It would also enable local residents to satisfy themselves that the Council is directing its resource to the areas of greatest risk.

## 6.5 **Property Implications**

None

## 6.6 **Consultation**

In compliance with the requirement of the Regulators Code a consultation was undertaken which asked for feedback on those regulated for their views on the Regulatory Services Policy.

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 exercise involved in the following elements:-

- a) Details on the website with a link to the draft document, was placed on the Council's website.
- b) Continuing response to enquiries, and requests for copies of the draft.
- c) The issuing of a press release at the start of the consultation process.
- d) There were 41 hits on the Council's website and 3 responses by email to the consultation. Inclusion of the new Anti-social behaviour legislation was proposed to be added as part of a review process. This has now been included.

## 6.7 **Equalities and Diversity Implications**

An Equalities Impact Assessment has been undertaken and findings have been taken into account in the production of the report.

## 6.8 **Risk Assessment**

The failure to ensure that the Local Authority operates in accordance with the requirements of the Legislative and Regulatory Reform Act 2006 could result in challenges to the Council's actions.

## 6.9 **Value for Money**

Regulators are required to:

- Not impose unnecessary burdens on business to support those regulated to comply and grow.
- Inspections only take place where there is a reason to do so, based on risk.
- Regulators be accountable for the efficiency and effectiveness of their actions

## 6.10 **Community Safety Implications**

The Regulators Code contributes to crime and disorder strategy in outlining our processes and targeting resources.

## 6.11 **Environmental Impact**

None

## 7. **Background Papers**

Regulators Code April 2014

Regulatory Enforcement and Sanctions Act 2008

Legislative and Regulatory Reform Act 2006

## 8. **Appendices**

Appendix 1: Regulatory Services Enforcement Policy January 2015