

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	The Cabinet
2.	Date:	17th December 2014
3.	Title:	General Enforcement Policy
4.	Directorate:	Neighbourhoods and Adult Services & Economic and Development Services

5. Summary

This report details the review and update of the Council's General Enforcement Policy following the publication of the new Regulators' Code (Better Regulation Delivery Office [BRDO]) in April 2014. The Regulator's Code is a statutory document detailing how regulators should carry out their functions.

The Council has a wide enforcement remit covering many and diverse statutory functions. The General Enforcement Policy outlines Rotherham Council's approach to securing fair, practical, and consistent enforcement, conducted in a transparent manner. Legislation can at times appear complicated, but this policy aims to make the Council's practices clear, straightforward and accessible.

This policy also details the enforcement methods we deploy and is intended to provide general guidance as to these methods and our approach for individuals and businesses who live, trade or visit the Borough.

6. Recommendations

It is recommended that Cabinet:

- 6.1 Notes the proposed wording of a new General Enforcement Policy**
- 6.2 Recommends that the Council approve the commencement of consultation on the revision of the new draft General Enforcement Policy**

7. Proposals and Details

Background

The Council has always abided to the use of the principal's of good regulation and over the the last ten years or so this has been advised by national codes of guidance issued by Governments. This has included the Enforcement Concordat and Regulator's Compliance Code. To implement these codes into the enforcement and regulation functions the Council has embedded the principles into a General Enforcement Policy (GEP). The most recently adopted policy was agreed by Cabinet in 2008, and amended in 2011 with reference to the introduction of a charging regime for Housing Act notices.

A new national code; the Regulators' Code, issued uner the Legislative and Regulatory Reform Act 2006 ("the Act"), became, on the 6th April 2014, a statutory code by which the Council, and other regulatory bodies (if their regulatory statute is scheduled by the enacting order) must have regard to when developing policies and operational procedures.

This new code provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate. The Code is underpinned by the statutory principles of good regulation, which provide 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.

The Government's expectation is that, as regulators, the Council integrate the Code's standards into regulatory culture and processes. Consequently regulators will be able to use their resources in a way that gets the most value out of the effort that they make. This report introduces a new General Enforcement Policy for the Council to work to these principles. The drafting of the policy has utilised national guidance contained in the Regulators' Code Section 6: Local Authority Toolkit.

The Code stresses the need for regulators to adopt a positive and proactive approach towards ensuring compliance by helping and encouraging regulated entities to understand and meet regulatory requirements more easily, and responding proportionately to regulatory breaches.

It is apparent that, with the Council's regulatory services working to previous good practice advised by national guidance, there are established working procedures that already comply with the new Code. This is demonstrated, for example, Parking Services who have a clear / transparent Parking Enforcement Policy which is available via the Council's web site and who also publish an Annual Report which sets out the requisite financial and statistical information.

The Council carries out a wide range of enforcement activities, including a number of risk based interventions, but balanced with guidance on legal obligations for businesses, consumers, residents, visitors. Our services interact with everyone, young or old, who come into Rotherham and even people from much further afield who buy or use goods and services originating from the Borough.

The main purpose of our enforcement activities is to protect the public and the environment. To achieve this aim we endeavour to regulate businesses and others in a fair, practical and consistent manner helping to promote the local and national economy and make Rotherham a better, safer place in which to live, work and visit.

To introduce the Policy consultation is required with those who may be impacted by the Council's regulatory and enforcement services.

The Policy

The General Enforcement Policy (detailed at Appendix A), is based on the principles of good enforcement detailed in the Enforcement Concordat and the Regulators' Code (Better Regulation Delivery Office [BRDO] April 2014). The Council aims to enforce in a transparent manner and in all our choices of enforcement actions we follow the principles of the Regulators' Code and in particular we will use interventions that:

- Minimise any unnecessary burden on business
- Aim to change the behaviour of the offender;
- Aim to eliminate any financial gain or benefit from non-compliance;
- Will be proportionate to the nature of the offence and the harm caused;
- Aim to restore the harm caused by regulatory non-compliance where appropriate;
- Aim to deter future non-compliance of the offenders and others.

No two cases are the same and each will be considered on its own merits. In deciding on the method of dealing with a case, consideration will be given to matters which aggravate or mitigate the seriousness of the case so that the most appropriate and proportionate method of disposal is chosen.

We will exercise our regulatory activities in a way which is:

- **Proportionate** – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,
- **Accountable** – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- **Consistent** – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities,
- **Transparent** – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- **Targeted** – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

The General Enforcement Policy applies to the regulatory functions discharged by Neighbourhood and Adult Services' Safer Neighbourhoods and Business Regulation

Services; and Environment and Development Services' Parking and Highways Services.

The Policy does not cover the regulatory and enforcement functions delivered by Planning and Building Control Services; this is because their regulatory statutory powers are not scheduled with Part 3 of the 2007 order. The extant list of regulations covered by the Regulators' Code is found within the schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007.

8. Finance

Contained within existing revenue budgets.

9. Risks and Uncertainties

The Regulator's Code is a statutory guidance document, and failure to comply with its requirements presents the risk of the Council being in contravention of its statutory obligations.

Further, the General Enforcement Policy gives confidence to business and individuals of the transparency and fairness of the Council's approach to enforcement, without which the Council's reputation might be at risk.

10. Policy and Performance Agenda Implications

The regulatory and enforcement services of the Council, and accordingly the working procedures and practices utilising the General Enforcement Policy have a direct contribution to the delivery of the Corporate Plan 2013-16. Such work directly relates to the Corporate Plan's priorities of ensuring all areas of Rotherham are safe, clean and well maintained, Protecting the most vulnerable, Improving the health & well being and, by ensuring that standards are complied with, provides for a consistent and transparent level playing field, to help stimulate the local economy.

This contribution is reflected in the "golden thread" recognised in the Neighbourhood and Adult Services' Service Plan for 2014/15.

11. Background Papers and Consultation

- Legislative and Regulatory Reform Act 2006 and associated statutory orders
- Enforcement Concordat
- Regulators' Code (Better Regulation Delivery Office [BRDO] April 2014)
- Regulators' Code Section 6: Local Authority Toolkit
- RMBC General Enforcement Policy (2008, as amended 2011)
- Consultees; RMBC Legal & Democratic Services and Economic & Development Services (Planning, Regeneration & Cultural and Streetpride Services)

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