

**Report to:** Cabinet

**Date of Meeting:** 10th July 2017

**Report Title:** Environmental Health Service Enforcement Policy

**Report By:** Mike Hepworth  
Assistant Director, Environment & Place

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### **Purpose of Report**

The purpose of this report is to recommend for approval an updated Environmental Health Service Enforcement Policy. The enforcement policy has been updated following the reorganisation and restructure of the previous Health and Safety, Food Safety and Environmental Protection Teams into a new generic Environmental Health Service.

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### **Recommendation(s)**

- 1. The revised Environmental Health Service Enforcement Policy is approved and attached as Appendix 1.**
- 2. In future, in consultation with the Lead Member for Environment and Equalities, the Director of Operational Services, the Assistant Director Environment and Place and the Chief Legal Officer, to review and update the Council's Environmental Health Service Enforcement Policy on an ongoing basis as and when necessary, in response to legislative changes, developing best practice and revised statutory guidance.**

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### **Reasons for Recommendations**

1. To ensure that enforcement action by the Environmental Health Service continues to be undertaken in a fair, proportionate and consistent manner.
2. To provide evidence to courts, defendants, businesses and the public that the Environmental Health Service undertakes its enforcement activities in accordance with an approved framework.
3. To incorporate the principles set out in the Regulators Code which came into statutory effect in April 2014 to provide a clear, flexible and principles-based framework for how regulators should engage with those who they regulate.

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## Introduction

1. The Environmental Health Service covers a wide range of enforcement activities including: food safety, health and safety, environmental protection (air, water, and land), stray dogs, and pest control.
2. In 2001 the Council adopted the Government's "Enforcement Concordat" when it introduced its Corporate Enforcement Policy.

## Background

3. The Concordat sets out principles of good enforcement that help businesses and duty holders to comply with regulations and help enforcers to achieve higher levels of voluntary compliance. The principles are:
  - Standards: setting clear standards.
  - Openness: clear and open provision of information.
  - Helpfulness: helping business by advising on and assisting with compliance.
  - Complaints: having a clear complaints procedure.
  - Proportionality: ensuring that enforcement action is appropriate to the risks involved.
  - Consistency: ensuring consistent enforcement practice.
4. In 2008 the Governments "Regulators Compliance Code" came into effect. This requires enforcement regulation to be carried out on a risk-based approach so that efforts are focused on rogue and higher-risk businesses.
5. In 2014 the Regulators Code also came into effect under the Legislative and Regulatory Reform Act 2006. This provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate, and must have regard to when developing policies and procedures that guide their regulatory activities.
6. In 2013 the Council reviewed its Corporate Enforcement and Prosecution Policy to ensure that enforcement action Council wide continued to be undertaken in a fair, proportionate and consistent manner. The corporate policy is an 'umbrella' policy which covers all Council enforcement activity. However all enforcing service areas and departments were required to have their own enforcement policies, which sit beneath the corporate policy, detailing how enforcement would work in relation to their own specific activities such as noise nuisance, health and safety offences or food hygiene contraventions.
7. This revised and updated policy will therefore enable the Environmental Health Service to continue to take enforcement action in a fair, proportionate and

consistent manner and based on a clear, flexible and principles-based framework in accordance with the Regulators Code.

8. The Environmental Health Service Enforcement Policy will be reviewed from time to time (e.g. to cater for new offences or enforcement methods) and be subject to continued compliance with the Corporate Enforcement and Prosecution Policy.

## Policy Implications

9. From a risk management perspective the absence of an updated Environmental Health Service Enforcement Policy may lead to accusations of arbitrary and inconsistent enforcement and lead to acquittals in court for technical reasons despite the Council having good evidence and a strong case.
10. From a human rights perspective it's important that Council enforcement services operate in accordance with enforcement policies based upon statutory guidance such as that considered when developing this policy.
11. The Council has carried out equalities impact screening in relation to the proposed revised Environmental Health Enforcement Policy. This did identify the fact that enforcement is likely to involve work with businesses where English is not their first language and who may find it more difficult to secure compliance with the law, as letters and Notices are generally produced in English. Staff have however championed the use of translation services such as Language Line and by providing guidance materials, published by the Food Standards Agency, which are available in a wide range of languages.
12. The Service has also organised and run several very successful seminars, through the use of interpreters, to help businesses comply with the law and these have involved the Chinese, Turkish and Bengali communities. No complaints have been received that we adversely affect businesses where English is not their first language through the use of our enforcement powers. The fair, consistent and proportionate use of our enforcement powers should actually result in lower levels of non-compliance and promote and sustain engagement and strong community cohesion.
13. Utilising the enforcement powers available within the new policy will ensure that we protect public safety and quality of life across the borough through fair, consistent and proportionate use of Environmental Health and anti-social behaviour enforcement powers. These outward facing activities will therefore enhance Hastings as a place for people to live, work, study in and visit.
14. The Service has statutory obligations to enforce legislation across a wide and diverse range of public health functions. This involves verifying standards and business compliance, investigating complaints with regard to poor conditions and taking whatever enforcement action is necessary. The work is proactive consisting of a mix of planned activities such as inspection of food premises or environmental permitting compliance visits, and reactive involving statutory nuisance complaints relating to air, water or noise, accident investigations, and responses to general public and business enquiries. Together all of these enforcement activities ensure legal compliance and contribute to the Councils vision for a safer cleaner town.

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**Wards Affected**

All

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**Policy Implications**

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	No
Anti-Poverty	No

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**Additional Information**

Appendix 1 - Environmental Health Service Enforcement Policy (Revision 2017)

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**Officer to Contact**

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