

## Bath & North East Somerset Council

DECISION MAKER:	Cllr Veal, Cabinet Member for Communities	
DECISION DATE:	On or after 3 <sup>rd</sup> October 2016 (for single Member decision)	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2904
TITLE:	Adoption of the Public Protection and Health Improvement Enforcement Policy	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> Public Protection and Health Improvement Enforcement Policy		

### 1 THE ISSUE

- 1.1 The Council's Public Protection and Health Improvement Enforcement Policy has been reviewed to ensure that it is relevant and up to date. Following changes in legislation, including the introduction of the Regulators Code 2014 and the Consumer Rights Act 2015, the Enforcement Policy has been reviewed and updated.

### 2 RECOMMENDATION

- 2.1 The Cabinet Member is asked to consider the amendments to the Enforcement Policy and agree to the adoption of the policy;

### 3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 There are no specific additional resource implications relating to this report, but a failure of the Council to have a relevant and up to date Enforcement Policy in place may result in a legal challenge should legal proceedings be brought by the Council.

### 4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

The Regulators Code states that

- 4.1 Regulators **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards or giving guidance

- 4.2 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities<sup>1</sup> and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.
- 4.3 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:
- understand and minimise negative economic impacts of their regulatory activities;
  - minimising the costs of compliance for those they regulate;
  - improve confidence in compliance for those they regulate, by providing greater certainty; and
  - encourage and promote compliance.

## **5 THE REPORT**

- 5.1 This Enforcement Policy sets out how the Council's Public Protection and Health Improvement (PPHI) service deals with non-compliance with legislation they have a duty to enforce. A separate document details service standards and how they support business.
- 5.2 This policy makes minor amendments to the previous Enforcement Policy and will apply from October 2016. It has been updated in accordance with the Regulators' Code, introduced in April 2014 and to which all local authority regulators and many other public enforcement bodies must have regard. This Enforcement Policy will continue to be developed to take account of feedback from businesses and others.
- 5.3 This policy seeks to communicate and explain how our customers, namely businesses, consumers, and others affected by our enforcement activities, will be treated by our officers when dealing with breaches of any legislation enforced by the PPHI Service.
- 5.4 The Service is responsible for enforcing laws relating to Food, Health and Safety, Licensing, Environmental Protection and Monitoring, Cleansing and Trading Standards which relate to aspects of health, wellbeing, public safety, consumer protection and enhancement of the local environment. We operate the Service based on the principles of transparent, accountable, proportionate and consistent enforcement. We aim to improve regulatory outcomes without creating unnecessary burdens on business.
- 5.5 We carry out our duties in various ways including: inspection, sampling, test purchasing, testing, investigation and prosecution, but also by informing, advising and educating businesses and consumers.
- 5.6 We recognise that prevention is better than cure and that most businesses want to comply with the law. We will endeavour to help these businesses meet their legal obligations without unnecessary expense. When a business

does break the law, we will consider all the surrounding circumstances before deciding whether formal action is appropriate. A prosecution will only be brought if it is in the public interest to do so.

## 6 RATIONALE

6.1 The Council has a duty to comply with the Regulators Code, and must regularly review its policies and procedures to ensure that the Enforcement Policy is transparent, accountable, proportionate and consistent enforcement. We aim to improve regulatory outcomes without creating unnecessary burdens on business

## 7 OTHER OPTIONS CONSIDERED

7.1 None

## 8 CONSULTATION

8.1 Although no specific external consultation has taken place in preparing this policy, the Enforcement Policy will continue to be amended and developed to take account of feedback from businesses and others.

## 9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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<b>Background papers</b>	Regulators Code 2014 <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf</a>
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