

DECISION-MAKER:	CABINET		
SUBJECT:	TRADING STANDARDS, PORT HEALTH & PARKING FRAUD INVESTIGATIONS ENFORCEMENT POLICY		
DATE OF DECISION:	18 JUNE 2019		
REPORT OF:	CABINET MEMBER FOR PLACE & TRANSPORT		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
None	
BRIEF SUMMARY	
<p>The Trading Standards, Port Health & Parking Fraud Investigations Enforcement Policy has been proposed to support Southampton City Council's general Enforcement Policy published in 2017. This proposed policy will be applied to enforcement actions conducted by Officers within Trading Standards, Port Health and Parking Fraud Investigation services.</p>	
<p>It is necessary to propose this new policy in order to reflect the latest position in terms of regulations and processes relevant to enforcement within these service areas. It is also necessary to better reflect the policy in line with Southampton City Council's general Enforcement Policy, and make use of powers that are not covered by the general Enforcement Policy. There are no fundamental changes to the processes or service, and the proposed policy instead reflects a clarification of the service in line with the duties set out in legislation.</p>	
RECOMMENDATIONS:	
	(i) To consider and approve the proposed Trading Standards, Port Health & Parking Fraud Investigations Enforcement Policy and linked Protocols.
REASONS FOR REPORT RECOMMENDATIONS	
1.	<p>The Trading Standards, Port Health & Parking Fraud Investigations Enforcement Policy outlines the council's approach to encouraging compliance with its regulations and policies through enforcement. Encouraging compliance with council policies and regulations enables the council to promote positive outcomes as set out in the City Strategy 2016-2020. In addition, it supports the Southampton City Council Strategy (2016-2020) outcomes:</p> <ul style="list-style-type: none"> • People in Southampton live safe, healthy, independent lives

	<ul style="list-style-type: none"> • Southampton is a modern, attractive city where people are proud to live and work.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
2.	One alternative discussed was to have separate enforcement policies for Trading Standards, Port Health & Parking Fraud Investigations. This is inadvisable because having a joint policy that covers all of the areas the legislation is relevant to provides a solid common reference point for Officers when dealing with enforcement issues in these areas. Without a joint policy, there is a risk that principles are inconsistently applied across the different service areas, and having a joint policy ensures that enforcement is carried out consistently in line with the general Enforcement Policy.
3.	Another alternative option would be to refer solely to the council's general enforcement policy rather than separate policies. This is strongly inadvisable because it would not make full use of the powers available to the local authority and would undermine the council's ability to provide effective enforcement. It would also leave the council vulnerable to legal challenge.
DETAIL (Including consultation carried out)	
4.	The proposed Trading Standards, Port Health & Parking Fraud Investigations Enforcement Policy is designed to be used by Trading Standards, Port Health and Parking Fraud Investigation services alongside Southampton City Council's general Enforcement Policy, which is a high level council wide policy, setting out the principles by which the council will carry out enforcement activity. Southampton City Council's general Enforcement Policy also sets out enforcement options and procedures, and addresses the enforcement of legislation within the scope of the Legislative and Regulatory Reform Act 2006. Much of the work conducted by Port Health, Trading Standards and Parking Fraud Investigations falls outside the scope of the Regulatory Reform Act, and therefore this additional policy is required in relation to Trading Standards, Port Health and Parking Fraud Investigations.
5.	Alongside the proposed policy, it is also necessary to publish a Disclosure Protocol, as listed in Appendix 2. This document seeks to set out how the council will meet its obligations under the Criminal Procedures and Investigations Act (CPIA), and, in particular, how the council will approach the disclosure of material to the defence.
6.	Furthermore, it has also been necessary to publish additional information for witnesses, as listed in Appendix 3 and 4. By providing this additional information to witnesses, it makes sure that witnesses have the necessary information to ensure that statements are complete and accurate. It also ensures that witnesses are provided with Officer contact details.
7.	The draft policy has been drafted with input from Trading Standards and Port Health (including Parking Enforcement), Legal Services and Intelligence, Insight & Communications.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
8.	Following consultation with the relevant service areas involved in enforcement activity, the proposed change in policy is not expected to have

	an adverse financial impact arising from officer involvement and actions in dealing with enforcement issues in the future.
Property/Other	
9.	None
LEGAL IMPLICATIONS	
Statutory power to undertake proposals in the report:	
10.	The Regulators Code 2014 (“Code”) was approved pursuant to S23 Legislative and Regulatory Reform Act 2006. The Council must have regard to the Code when developing policies and operational procedures that guide the council’s regulatory activities including enforcement action.
Other Legal Implications:	
11.	The Council must have due regard to the Public Sector Equality Duty under the Equality Act 2010 when carrying out any functions including developing any policies that may have any effect on any protected persons, in particular the duty to eliminate discrimination, harassment and victimisation and advance equality of opportunity and fostering good relations. Local Authorities also have a duty under the Human Rights Act 1998, when carrying out any function, not to act incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms.
RISK MANAGEMENT IMPLICATIONS	
12.	If Southampton City Council does not adopt a joint Enforcement Policy for Trading Standards, Port Health & Parking Fraud Investigations, there is no reference point for enforcement that falls outside of the Regulators Code Act 2014. This might increase the risk of legal challenge and reduce the fairness and effectiveness of the council’s approach to enforcement within Trading Standards, Port Health & Parking Fraud Investigations.
POLICY FRAMEWORK IMPLICATIONS	
13.	The Trading Standards, Port Health & Parking Fraud Investigations Enforcement Policy supports Southampton City Council Strategy (2016-2020) outcomes: <ul style="list-style-type: none"> • People in Southampton live safe, health, independent lives • Southampton is a modern, attractive city where people are proud to live and work

KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	All wards/communities
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Proposed Trading Standards, Port Health & Parking Fraud Investigations Policy
2.	Disclosure Protocol

3.	Information to Persons providing Witness Statements
4.	Making a Witness Statement
5.	Equality Impact Assessment

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None