

DECISION-MAKER:	Cabinet		
SUBJECT:	Enforcement Policy		
DATE OF DECISION:	19 December 2017		
REPORT OF:	Cabinet Member for Health and Community Safety		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Felicity Ridgway, Service Lead – Policy, Partnerships and Strategic Planning	Tel: 023 8083 3310
	E-mail:	felicity.ridgway@southampton.gov.uk	
Director	Name:	Emma Lewis, Service Director – Intelligence, Insight and Communications	Tel: 023 8091 7984
	E-mail:	emma.lewis@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
<p>Enforcement is defined as any action by an officer which encourages compliance with legislation enforced by the council. A range of actions are available, including informal interventions (e.g. offering advice) through to more formal measures such as prosecution.</p> <p>Southampton City Council’s Corporate Enforcement Policy was last published in 2006. Since 2006, new relevant legislation has been introduced, including the Regulator’s Code (2014), which emphasises the role of regulators in assisting people to comply with regulations by setting out clear and transparent explanation of the regulations, as well as actively providing education and advice. The current policy therefore requires updating to ensure that it is in line with the latest legislation.</p>			
RECOMMENDATIONS:			
1.	To consider and approve the proposed Enforcement Policy		
REASONS FOR REPORT RECOMMENDATIONS			
2.	<p>The Enforcement Policy outlines the council’s approach to encouraging compliance with its regulations and policies in a way that is in line with current government legislation and guidance. 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 • Southampton is a modern, attractive city where people are proud to live and work. 		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
3.	<p>One alternative would be to have no council-wide Enforcement Policy and instead have individual service area enforcement policies. This is inadvisable since having a general Enforcement Policy provides a solid common reference point from which other more service-specific policies can be developed as</p>		

	necessary. The general policy sets out the principles by which all council enforcement action should be carried out. If there is no common reference point, there is a risk that principles are inconsistently applied across different service areas. This might increase the risk of legal challenge and reduce the fairness and effectiveness of the council's approach to enforcement.
4.	Another alternative option would be to have no policies on enforcement. This would be strongly inadvisable since it would undermine the council's ability to support its policies and regulations with effective enforcement. It would also leave the council vulnerable to legal challenge.
DETAIL (Including consultation carried out)	
5.	Southampton City Council's Enforcement Policy is a high level council wide policy, setting out the principles by which the council will carry out enforcement activity. It also sets out enforcement options and procedures. In order to ensure that the policy is in line with latest legislation, and accurately reflects the council's enforcement approach, the Enforcement Policy has been reviewed and updated. The appropriate use of enforcement powers is important, both to secure compliance with legislation and to ensure that those who have duties in law may be held to account for failures to safeguard health, safety and welfare or breach of legislation enforced by the council.
6.	The current Corporate Enforcement Policy was written in 2006 and required updating to take into account the introduction of the Regulator's Code (2014) by the Department for Business, Innovation and Skills. This guidance code emphasises the role of regulators in actively assisting and communicating with businesses and individuals who are affected by the regulations, before resorting to more formal enforcement measures (prosecutions, cautions etc.). In line with this guidance and best practice across the council, the draft updated policy includes 'education/advice' as an enforcement option.
7.	Another update to the previous policy has been the inclusion of a set of overarching enforcement principles, which will guide the council's enforcement activity: <ul style="list-style-type: none"> • Proportionate – our enforcement activities should reflect the level of risk to the public and enforcement action taken should correspond to the seriousness of the offence. • Accountable – our activities should be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures. • Consistent – our advice to those we regulate should be reliable and we will respect advice provided by other regulators. The council should seek to ensure fair and level enforcement, however the council recognises that consistency is not the same as uniformity. Officers should exercise their professional judgement and discretion according to the circumstances of each individual case. • Transparent – those we regulate should be able to understand what is expected of them and what they can anticipate in return; regulations and enforcement procedures should be as clear and simple as possible.
8.	This Enforcement Policy is an overarching general policy. All of the council's enforcement activity will have regard to the principles it outlines. Some services also require service specific enforcement policies, and in these cases the additional specific policies will adhere to the general principles of the overarching Enforcement Policy.

9.	The draft policy has been updated with input from Environment, Street Scene & Health, City Services, Housing Services (including the Street Homelessness Prevention Team), The ICU (Housing Support Services and Drugs and Alcohol Services), Legal Services, Planning, and Intelligence, Insight and Communications.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
10.	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. City Council activity is already compliant with legislation; the policy update is intended to ensure that the City Council's policy is in line with the legislation.
<u>Property/Other</u>	
11.	None
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
12.	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.
<u>Other Legal Implications:</u>	
13.	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	
14.	If the council does not adopt a revised Enforcement Policy and there is no common reference point, there is a risk that the principles are inconsistently applied across different service areas. This might increase the risk of legal challenge and reduce the fairness and effectiveness of the council's approach to enforcement.
POLICY FRAMEWORK IMPLICATIONS	
15.	The Enforcement Policy supports Southampton City Council Strategy (2016-2020) outcomes: <ul style="list-style-type: none"> • People in Southampton live safe, healthy, 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 Enforcement Policy		
2.	Enforcement Policy ESIA		
Documents In Members' Rooms			
1.	None		
Equality Impact Assessment			
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.			Yes
Privacy Impact Assessment			
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.			No
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		