



Chester-le-Street District Council

Report to:	Executive
Date of Meeting:	3 December 2007
Report from:	Head of Planning and Environmental Health
Title of Report:	Draft Environmental Health Enforcement Policy
Agenda Item Number:	

1. PURPOSE, SUMMARY AND RECOMMENDATIONS

- 1.1 The purpose of the report is to consider the proposed Draft Environmental Health Enforcement Policy which is attached as Appendix A.
- 1.2 The Draft Enforcement Policy amalgamates and updates existing individual policies required by legislation and statutory codes of practice into a single document and clarifies the Council's approach to Environmental Health enforcement activities.
- 1.3 Executive is requested to adopt the draft policy as a version suitable for public consultation and request Officers to carry out an appropriate public consultation exercise.

2. CONSULTATION

- 2.1 Consultation was undertaken with the Head of Legal and Democratic Services, Head of Planning and Environmental Health, Acting Environmental Health Team Leader and Officers of the Environmental Health Team who specialise in the specific functions of the service to which the Enforcement Policy relates. The Performance and Improvement Manager was consulted regarding the diversity implications and the Risk and Financial Services Manager on risk management implications. Comments received are incorporated within the draft policy document.

3. CORPORATE PLAN AND PRIORITIES

- 3.1 The adoption of a draft Enforcement Policy contributes directly to priority NM12 of the Corporate Plan 2006-2009.

- 3.2 An environmental Health Enforcement Policy is required to meet the requirements of BVPI 166.
- 3.3 The Enforcement Policy through its promotion of consistency and fairness reflects the Council's priorities of customer excellence.

4. Implications

4.1 Financial Implications

- 4.1.1 Adoption of the Enforcement Policy including the cost of producing and distributing the draft policy for consultation, the publication of the approved Enforcement Policy on the Council's website and the production and distribution of a summary leaflet for the public and businesses will be met from within existing budgets.
- 4.1.2 There are a number of enforcement activities which can generate income. These include the service of fixed penalty notices and the setting up of charges. This report does not seek to alter these charges which were previously agreed via specific reports and are set to recover costs only.

Value for Money Statement

- 4.1.3 The adoption of the draft Enforcement Policy will ensure more efficient and effective working and improve performance against local and national performance indicators.
- 4.1.4 The draft Enforcement Policy takes a risk-based approach to regulatory activity. This provides the most efficient use of resources and provides protection for the consumer, whilst minimising burdens on compliant businesses.
- 4.1.5 This risk-based assessment approach informs all aspects of the enforcement processes within the Enforcement Policy, from the selection of the most appropriate level of enforcement through to the collection of data, inspection and prosecution. Undertaking risk assessment takes into account the nature of a business and external factors affecting risk. Resources will be directed where they are most effective which will result in reducing unnecessary inspections or data requests from low-risk businesses. It will enable the identification of those businesses that need more regular inspection and release resources to improve broader advice services and to address service priorities.

4.2 Legal

4.2.1 Subject to para 4.2.2. the Enforcement Policy does not arise from a specific statutory power or requirement. Rather it relates to how the Council will approach the issue of the enforcement of a raft of diverse legislation enforced by the Environmental Health Service.

4.2.2. The Enforcement Policy does address two specific statutory requirements in relation to the 'Framework Agreement for Food Safety' issued under the Food Standards Act 1999 and Health and Safety at Work Etc. Act 1974 Section 18 Guidance, both of which require an enforcement policy.

4.2.3 The adoption of the Enforcement Policy will reduce the risk of a successful legal challenge when enforcement action is taken.

4.3 Personnel

4.3.1 There are no human resource implications arising from this report.

4.4 Other Services

4.4.1 As the policy does not fundamentally alter the Council's approach to enforcement rather it amalgamates and expands a number of existing documents it is not expected that the adaptation of the policy itself will lead to any increase in workload.

4.5 Diversity

4.5.1 Consultation on the diversity aspects of the Enforcement Policy was undertaken with the Performance and Improvement Manager and comments have been incorporated in the Enforcement Policy.

4.5.2 The range of proactive enforcement activities which are contained in the Enforcement Policy form an invaluable mechanism for the Council to both engage with and educate many employers and employees from minority backgrounds. Workers from minority groups can be particularly vulnerable in workplace situations. Proactive measures are essential to safeguard the health, safety and welfare of the business community and the public.

4.6 Risk

4.6.1 Existing enforcement policies within Environmental Health are out of date and new legislation requires additional enforcement functions to be addressed within the service. It is considered that the adoption of the enforcement policy will reduce the risk of inappropriate enforcement or successful legal challenge.

4.7 Crime and Disorder

4.7.1 The adoption of the Enforcement Policy will enhance the delivery of a robust service in relation to environmental crime and breaches of legislation dealt with by the Environmental Health service.

4.8 Data Quality

4.8.1 Every care has been taken in the development of this report to ensure that the information and data used in its preparation and the appendices attached are accurate, timely, consistent and comprehensive. The Council's Data Quality Policy has been complied with in producing this report.

4.9 Other Implications

4.9.1 There are no other implications arising from this report.

5. BACKGROUND, POSITION STATEMENT AND OPTION APPRAISAL

5.1 The Council's Environmental Health Service has a statutory duty to enforce a wide range of legislation. Its overall approach to enforcement takes into account the six principles of 'good enforcement' set out in the Enforcement Concordat which the Council signed in 1998. The principles are associated with fair, transparent and balanced enforcement decision making. The principles are:

- Performance will be measured against published standards
- There will be openness in dealing with businesses and others
- Enforcement officers will be helpful, courteous and efficient
- Complaint procedures will be published
- Enforcement decisions will be proportionate to the circumstances
- Enforcement officers will strive for high standards of consistency

5.2 The principles of the Enforcement Concordat are substantially reinforced through the introduction of Best Value Performance Indicator 166, which sets out a framework to measure and score enforcement performance. The main provisions relate to:

- Written and published enforcement policy
- Planning of enforcement activity
- Reactive enforcement activity
- Appropriate resources
- Consultation and satisfaction levels

5.3 Existing position

5.3.1 The Environmental Health team currently only has one enforcement policy that has been properly adopted by the Council, this relates to the enforcement of food safety law.

5.3.2 Two other enforcement policies, the first relating to Health and Safety enforcement and the second a generic policy were developed but subsequently suspended when a corporate enforcement policy was proposed.

5.4 Proposed enforcement arrangements

The draft Policy provides a practical opportunity not only to update existing policies but also to rationalise them into one document that has the advantage of being readily accessible and a single point of reference to officers and the public.

5.5 The proposed Policy bridges the gap between the high level issues of proportionality, transparency and consistency of enforcement action with the practical issues faced by Officers.

5.6 The policy is effectively in two parts, the first addresses generic enforcement issues and principles. The second, presented as a series of appendixes provide service specific guidance and details of the enforcement options available in each area. This approach has been adopted in preference to the continued adoption of service specific enforcement policies such as those for food and health & safety as it provides a simpler more comprehensive document and provides for more efficient and effective consultation.

6. **RECOMMENDATIONS**

6.1 Executive is requested to recommend to Council that the Draft Enforcement Policy attached as Appendix A be approved as a version suitable for public consultation and Officers be requested to carryout an appropriate public consultation exercise.

7. **BACKGROUND PAPERS/ DOCUMENTS REFERRED TO**

7.1 The Enforcement Concordat
The Code for Crown Prosecutors
Best Value Performance Indicator 166 Guidance DETR 2004
Food Law Code of Practice

Christine Ditchburn (Principal Environmental Health Officer)

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VERSION NUMBER 2.0

Christine Ditchburn Tel 01913872203

e mail christineditchburn@chester-le-street.gov.uk

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