



EXECUTIVE BOARD DECISION

REPORT OF: Executive Member for Resources

LEAD OFFICERS: Council Solicitor

DATE: 11 October 2018

**PORTFOLIO/S
AFFECTED:** ALL

WARD/S AFFECTED: All

KEY DECISION: YES NO

SUBJECT: ENFORCEMENT AND PROSECUTION POLICY

1. EXECUTIVE SUMMARY

To present to Members of the Council a corporate prosecution policy applicable to all regulatory functions of the Council.

2. RECOMMENDATIONS

That the Executive Board consider the policy and resolve whether to adopt it.

3. BACKGROUND

The Council has a variety of enforcement functions, the purpose of which are to promote public safety and to protect public amenities, the environment and consumers. The Council's intention is to promote a balanced, thriving and safe local community by carrying out enforcement in a practical and proportionate manner, whilst having regard to the impact the enforcement is likely to have upon local businesses and people.

The public nature of enforcement especially when it comes to bringing prosecutions to court means that it is necessary to act in a way that complies with the principles of proportionality, consistency, transparency, targeted/prioritised enforcement action and accountability.

Therefore it was considered best practice to develop a public-facing policy which as well as providing information to members of the public, can also be used as guidance for officers undertaking the enforcement. A copy of the draft Enforcement and Prosecution Policy is attached at Appendix 1.

4. KEY ISSUES & RISKS

Council officers have a duty to have regard to two Codes of Practice, for enforcement officers it is the Regulators Code and for Prosecution lawyers it is the Code for Crown Prosecutors. The principles in both Codes are routinely applied by enforcement officers but the Council needs to demonstrate that the principles have been formally adopted.

The existence of such a policy will assist in the consistency of decision-making throughout the enforcement process. It will reassure everyone

- that Council officers, in particular those involved in enforcement , routinely apply the principles of proportionality, consistency, transparency, targeted/prioritised enforcement action and accountability, all of which are set out in the statutory Regulators' Code.
- that the Council is applying the public interest test and the evidential test at the stage before a prosecution is commenced which are set out in the Code for Crown prosecutors

There are a number of different functions of a regulatory nature, within the Council including :

- Environmental protection
- Envirocrime
- Housing Standards
- Planning, Building Control and Highways (including parking)
- Licensing
- Trading standards and consumer protection
- Community Safety- Anti-Social Behaviour
- Food law
- Health and safety at work
- Education – Unauthorised Absence from School / Breach of School Attendance Order

Each function has its own legislation and statutory instruments which apply. Some of these already have their own enforcement policies which are specific to each area, whether statutory or otherwise. This corporate policy serves to promote consistency across the Council whilst preserving the specific duties and requirements for each individual function.

5. POLICY IMPLICATIONS

This policy contributes to the corporate priorities (numbers 3 4 and 5 :

Improving health and well-being;
Improving outcomes for our young people – education and skills
Safeguarding the most vulnerable people

6. FINANCIAL IMPLICATIONS

The policy will be accommodated within existing resources

7. LEGAL IMPLICATIONS

This policy is to be welcomed as a way of demonstrating the Council's commitment to the Regulators Code and the Code of Crown Prosecutors.

8. RESOURCE IMPLICATIONS

The policy will be accommodated within existing resources.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

This policy has been drafted in consultation with the following departments – licensing, community safety, planning, education, parking enforcement, audit, housing standards, corporate complaints, public protection and Council Tax Recovery.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	1
-----------------	----------

CONTACT OFFICER:	Shelagh Lyth, Solicitor
-------------------------	-------------------------

DATE:	6 th September 2018
--------------	--------------------------------

BACKGROUND PAPER:	Code of Crown Prosecutors, Regulators Code.
--------------------------	---------------------------------------------