



Report To: Leader and Cabinet

11 September 2014

Lead Officer: Director, Health & Environmental Services

CORPORATE ENFORCEMENT & INSPECTION POLICY

Purpose

1. To seek Cabinet's approval of a corporate Enforcement & Inspection Policy for South Cambridgeshire District Council (SCDC).
2. This is a key decision because it is significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of South Cambridgeshire District Council and it was first published in the July 2014 Forward Plan.

Recommendation

3. It is recommended that Cabinet approves the corporate Enforcement & Inspection Policy for South Cambridgeshire District Council attached as **Appendix 1**.

Reasons for Recommendations

4. Although detailed policies and processes exist across individual SCDC enforcement teams, this Policy seeks to draw these together into a single, Council-wide, high-level statement of what residents and businesses can expect when it undertakes its enforcement and inspection activities. A single, corporate Policy will make that approach more easily accessible and form a framework for individual enforcement teams to further develop and review detailed enforcement processes.
5. In developing this Policy, the Council has had regard to the newly published Regulators' Compliance Code and has considered the impact of the Policy on businesses and engaged with business representatives. However, this must be balanced with an understanding of local community expectations of enforcement, particularly when this does not involve any business (for example, tackling a statutory nuisance emanating from domestic premises).

Background

6. South Cambridgeshire District Council is committed to maintaining a superb quality of life for all who live, work and study in the District and to supporting business growth and success. The Council's statutory regulatory activities are amongst the most valuable practical tools for delivering these aims, and include such work as providing advice and assistance to new and existing businesses to help them "get it right", through to taking enforcement action to tackle fraud, nuisances and protect the environment.
7. There are currently at least 8 "enforcement" policies published on the SCDC website, each developed to address different enforcement activities delivered across the Council. This means that for residents and businesses, there is no single place to find

a clear statement of the Council's approach to delivering its enforcement work and no overarching guidance for officers to use to develop detailed processes. As a result, in April 2012, Cabinet agreed to adopt the recommendations of the corporate Enforcement & Inspection Review which included the need to develop a single, corporate enforcement & inspection policy to ensure consistency of approach and expectations and ease of understanding for residents, businesses and officers alike.

8. In February 2013, a Portfolio Holder Task & Finish Group was convened to oversee and shape the development of an SCDC corporate Enforcement & Inspection Policy. In addition to Councillors' views, workshops have been held with officers, Executive Management Team and Parish Councils, the results of which have been fed back into the Task & Finish Group. Following Cabinet's agreement of a draft policy, a public consultation was undertaken with residents, businesses and Parishes in December 2013. Following amendments after the final publication of the Government's Regulators' Code in April 2014, the proposed Policy is now attached at Appendix 1.
9. Further work is underway to develop a Corporate Enforcement & Prosecution Process, a training package for SCDC enforcement staff and a set of corporate enforcement & inspection management information and Key Performance Indicators to support the implementation and monitoring of the draft Policy.

Considerations

10. The development of an SCDC corporate Enforcement & Inspection policy is set against a very busy national framework driven by the 2005 "Hampton Review" and the "Better Regulation" agenda. To date, at least 51 statements of principle have been published by Government to which Local Authorities should have regard when developing enforcement policies and undertaking regulatory activities.
11. To clarify these 51 requirements, in April 2014 the Government introduced the statutory "Regulators' Code" under the Legislative & Regulatory Reform Act 2006 to provide a clearer framework for how regulators (including SCDC) should interact with those they regulate. The Code sets out 28 detailed provisions under 6 key principles which state that Regulators should:
 - (a) Carry out their activities in a way that supports those they regulate to comply and grow.
 - (b) Provide simple and straightforward ways to engage with those they regulate and hear their views.
 - (c) Base their regulatory activities on risk.
 - (d) Share information about compliance & risk.
 - (e) Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
 - (f) Ensure their approach to their regulatory activities is transparent.
12. In approving the draft policy in November 2013, Cabinet considered a range of issues prior to consultation. These included:
 - (a) Clarity of language and intent of the policy and what residents and businesses can expect from the Council.
 - (b) A focus on supporting victims and witnesses, and on prevention and problem-solving, rather than reactive enforcement, without removing the Council's determination to take enforcement action when the need arises.

- (c) The Policy should not be a bureaucratic burden on officers seeking to work with businesses and the community to solve problems, but support a “can-do” attitude and the need for expert enforcement officers to apply their skills and professional discretion to ensure the Council’s enforcement response is both proportionate and matched to the risk at hand.
- (d) The Council has differing levels of duty either outlined by legally binding statutory functions or by statutory or Government guidance in relation to its regulatory functions. The legislation and enforcement process is very different in areas such as planning to that set out under the predominantly criminal law based regimes governing Environmental Health, Licensing, Anti-Social Behaviour, Housing and Fraud. Although the Regulators’ Code does not (yet) apply to Planning Enforcement, Cabinet was content to apply the same “guiding principles” set out in the Code to all Council enforcement and inspection activities, including Planning.
- (e) The areas considered to be in scope at this present time are:-
- Environmental Health
 - Licensing
 - Community Safety & Anti-Social Behaviour
 - Housing
 - Planning Enforcement
 - Building Control
 - Proposed new Bailiffs Service
 - Residual Fraud Function(Following transfer to DWP of main functions in March 2015)
 - Revenues inspectors
 - Legal Services

13. Other than the introduction of the Regulators’ Code in April 2014, no new or substantial issues have been raised as a result of the consultation process.

Options

14. Cabinet may agree or amend this Enforcement & Inspection Policy. Any amendments suggested will need to be assessed against the statutory Regulators’ Code before formal agreement. Rejection of the Policy will go against the Cabinet-agreed Enforcement & Inspection Review Recommendations and the Regulators’ Code.

Implications

15. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

Financial

16. Any officer and Member training needs associated with the adoption of this new Policy will be met from existing budgets or from the Improvement East grant received for undertaking the Enforcement & Inspection Review.

Legal

17. The Council
 - (a) Must “have regard” to the Regulators’ Code when agreeing its enforcement policy. However, if the Council believes a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the Council is not bound to follow that provision, but should record its decision and the reasons for it.
 - (b) Must apply the “evidential test” and the “public interest test” contained in the Code for Crown Prosecutors when considering prosecution or issuing a caution.
18. The Policy cannot override specific legislative requirements which may prescribe how enforcement action is taken (for example, the Health & Safety at Work Act “s.18 Standard” and associated HELA Enforcement Policy).

Staffing

19. All enforcement and inspection staff will require training on any future Policy adopted by the Council.

Risk Management

20. The Policy seeks to address the legal risks set-out above.

Consultation responses (including from the Youth Council)

21. Small workshops have been held with SCDC Officers and with a small group of Parish Councils to inform the Portfolio Holder Task & Finish Group’s work to develop this draft Policy. The key issue raised by Parishes was around how SCDC better communicates with them on enforcement matters. This will be addressed outside the development of this Policy.
22. The draft Policy was published on the SCDC website for public comment and promoted in the SCDC Magazine. The draft Policy was also sent to over 400 businesses on the SCDC Business Register and highlighted to all Parishes in the SCDC Parish e-bulletin. There was, however, a low response to the consultation. Comments were gratefully received from Croydon Parish Council seeking expansion on the timescales for action and amendments have been included to reflect this.
23. As required by the Regulators’ Code, comments on the Policy were requested from the business representatives, and in particular the local Chamber of Commerce and Federation of Small Businesses. Dick Jarvis, Chairman of the Greater Cambridge Branch of The Federation, felt the Policy was heading in the right direction and welcomed the focus on encouraging compliance through support and advice rather than “mob-handed” enforcement. John Bridge, Chief Executive of the Chamber of Commerce, described the Policy as a “good initiative” and agreed to discuss it with the Chamber members in September. He identified four challenges to make this Policy more effective:

- (a) Businesses only need the Council's input when they need it. In the meantime, how can we excite businesses to comment on and get involved in policy development?
- (b) What is the role of the Local Enterprise Partnership in communicating this Policy?
- (c) How can SCDC get businesses to really believe that the Council is here to help?
- (d) How can SCDC join-up it's offering to businesses with other local authorities to simplify the complexity of which authority does what?

Effect on Strategic Aims

Aim 1 – We will listen to and engage with residents, parishes and businesses to ensure we deliver first class services and value-for-money.

24. This Policy contributes to the delivery of this Strategic Aim.

Aim 2 - We will work with Partners to create opportunities for employment, enterprise, education and world-leading innovation.

25. This Policy seeks to support the delivery of the previous 3A's Action B4 – "Continue an effective approach to enforcement to target residents' problems whilst effectively supporting local business success."

Background Papers

Where [the Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) require documents to be open to inspection by members of the public, they must be available for inspection: -

- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
- (b) on the Council's website; and
- (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

1. SCDC Enforcement & Inspection Review Principles. Report to SCDC Cabinet, April 2012.
<http://modern.gov/documents/s63856/Enforcement%20and%20Inspection%20Review%203.pdf>
2. Better Regulation Delivery Office "Regulators' Code".
<http://www.bis.gov.uk/brdo/regulators-code>

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