

Subject: Rossendale Borough Council
Enforcement Policy

Status: For Publication

Report to: The Cabinet

Date: 21st March 2007

Report of: Deputy Chief Executive

Portfolio Holders:

Street Scene and Liveability
Regeneration
Finance and Risk Management

Key Decision:

Yes

Forward Plan

General Exception

Special Urgency

1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to seek approval of the draft Enforcement Policy for consultation. The policy covers all enforcement activity carried out by the Council.

2. CORPORATE PRIORITIES

- 2.1 Adoption of this Policy will contribute to the achievement of several of the Corporate Priorities, especially the delivery of quality services to our customers, and keeping the borough clean and green where effective enforcement has a contribution to make. .

3. RISK ASSESSMENT IMPLICATIONS

- 3.1 Risks are associated with non-observance with the Policy but are considered manageable with the monitoring and review arrangements in place as described.

4. BACKGROUND AND OPTIONS

- 4.1 Enforcement activity undertaken by services within Rossendale Borough Council needs to be performed in accordance with Government standards and good practice. These requirements and guidance are included in two main documents:- The Enforcement Concordat and the Code for Crown Prosecutors. These describe how enforcement activity should be performed and the means for prioritising certain enforcement activities. Several services are required to publish an Enforcement Policy. Specific additional guidance is given by Government and Agencies in relation to specific services.
- 4.2 The Enforcement Concordat describes the principles of good enforcement, to which Rossendale Borough Council has already confirmed its adherence. Implementing these principles brings significant benefits to enforcers, business and society as a whole. By facilitating compliance, enforcers can achieve higher compliance rates and reduce the number of costly prosecutions undertaken. This will allow us to target those who flout the law or act irresponsibly. Business, in particular small to medium enterprises, will also find it easier to get compliance right first time, which will contribute to the safety of consumers and employees.
- 4.3 Enforcement includes a whole range of activities including, amongst other things, informal and formal letters, statutory notices, fixed penalty notices, prosecutions, prohibitions and licences. Rossendale Borough Council believes in firm but fair regulation. Underlying this policy are the principles of; proportionality in applying the law and securing compliance; consistency of approach; transparency about how the Council operates and what those regulated may expect from the Council; and targeting of enforcement activity.
- 4.4 The Code for Crown Prosecutors relates to situations where a decision to prosecute may be taken and recognises the fact that the decision to prosecute an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. The Code is intended to ensure that prosecutors can make fair and consistent decisions about prosecutions.
- 4.5 This policy now incorporates all enforcement services of the Council and incorporates changes introduced by the Code for Crown Prosecutors, last revised in November 2004, and the Home Office Circular 30/2005.
- 4.6 Following approval, the policy will be subject to consultation with appropriate stakeholders. Service specific appendices have been prepared so that the policy can be more readily interpreted. A shorter version of the policy will also be prepared in a more easily accessible format and the policy and its appendices published on the Council's web-site.
- 4.7 The Hampton Review, published in 2005, entitled 'Reducing administrative burdens: effective inspection and enforcement' considered how to reduce administrative burdens on business without compromising the UK's excellent regulatory outcomes. As a consequence of this report, the Better Regulation Executive was established.

4.8 In November 2006, the Government announced the appointment of Peter Rogers - Chief Executive of Westminster City Council - to lead an independent review of legislation enforced by local authorities. The review will include over 60 policy areas with the aim to produce a more joined up approach to regulatory inspection and enforcement. The review is due to report in the spring of 2007.

4.9 The final report of the Macrory Review of Regulatory Penalties was published on the 28 November 2006.

The review makes a number of recommendations that aim to ensure that regulators have access to a flexible set of modern fit for purpose sanctioning tools that are consistent with the risk based approach to enforcement outlined by Philip Hampton.

The review has considered a broad spectrum of sanctioning tools and has considered the major motivations of non-compliance and makes recommendations that would allow regulators to sanction in a risk based proportionate and appropriate manner.

The review makes recommendations around the following areas:

- A list of Penalties Principles and a framework for regulatory sanctioning.
- Preserving the importance of criminal prosecution as a regulatory sanction.
- The introduction of Monetary Administrative Penalties as an intermediate sanction;
- Strengthening the system of Statutory Notices.
- The introduction of a new type of sanction, Enforceable Undertakings and Undertakings Plus;
- The role of Restorative Justice in regulatory non-compliance.
- Alternative sentencing options that could be available in criminal courts.

4.10 Seventeen Government departments published Simplification plans on 11 December 2006 containing over 500 initiatives to cut "red tape". These plans followed a review to calculate administrative burdens on business. Detailed proposals, and their effects on regulatory services, are awaited.

4.11 The outcome of the Rogers Review, the proposals of the Local Better Regulation Office when it becomes fully operational towards the end of 2007, the outcome of the many simplification proposals and the response to the Macrory review are all likely to impact on the Enforcement Policy and its detailed implementation. The attached policy and appendix would then need to be reconsidered in the light of those drivers.

4.12 An Equalities Impact Assessment will be undertaken as part of the consultation process.

5. COMMENTS OF THE HEAD OF FINANCIAL SERVICES

5.1 There are no financial risks associated with the implementation of this policy.

6. COMMENTS OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

- 6.1 The implementation of this Policy has significant legal implications for the Authority, but its adoption shows that the Authority is taking a pro-active stance in relation to its regulatory responsibilities.

7. COMMENTS OF THE HEAD OF HUMAN RESOURCES

- 7.1 Staff competencies will be assessed and developed where necessary in order to ensure that the Policy will be effectively implemented. Enforcement decisions will be monitored against the Policy and reviewed as part of the Council's Performance Management system.

8. CONCLUSION

- 8.1 The Council undertakes a wide range of enforcement activities involving a wide range of legislation. In order to demonstrate compliance with the Enforcement Concordat by providing an objective, consistent, proportionate, transparent and targeted enforcement service, this policy explains how enforcement decisions are made and in what circumstances .

9. RECOMMENDATION

- 9.1 That Members approve the revised Policy for publication and for consultation over the next 3 months with stakeholders in relation to its application for specific services.

10. CONSULTATION CARRIED OUT

- 10.1 The Policy, if approved, will be subject to consultation with a wide range of stakeholders in respect of its appendices and detailed implementation. The Policy will also be subject to annual review and consultation in the future and is required to be subject to Member approval annually.

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Background Papers	
Document	Place of Inspection
The Code for Crown Prosecutors, Crown Prosecution Service, November 2004.	Stubbylee Hall, Stubbylee Lane, Bacup
Concordat on Good Enforcement, Cabinet Office and Local Government Association, 1998	
Home Office Circular 30/2005	