

Subject: Enforcement Policy Update

Status: For Publication

Report to: The Cabinet

Date: 19 September 2007

Report of: Deputy Chief Executive

Portfolio Holder: Portfolio Holder for a Clean and Green Rossendale

Holder: Portfolio Holder for Regenerating and Promoting Rossendale

Portfolio Holder for A Well Managed Council

Key Decision: No

Forward Plan

General Exception

Special Urgency

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide information connected to the development of the Enforcement Policy and the effect of current Government initiatives.

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective.
- Delivering Quality Services to Customers (Customers, Improvement)
 - By clarifying the enforcement action that can be taken, it is clear to individuals and businesses how such action is taken and why.
 - Delivering Regeneration across the Borough (Economy, Housing)
 - Enforcement action can contribute towards the creation of a 'level playing field' amongst businesses and help eliminate unfair competition.
 - Keeping Our Borough Clean and Green (Environment)
 - Targeted enforcement action can be used to ensure community safety and a clean environment is delivered.
 - Promoting Rossendale as a cracking place to live and visit (Economy)
 - The publication of an enforcement policy will help improve the public's understanding of the Council's activities.
 - Improving health and well being across the Borough (Health, Housing)
 - By enforcing issues related to lifestyle such as smokefree environments and alcohol controls, the health of the community will be protected and improved.

- Well Managed Council (Improvement, Community Network)
 - The effective implementation of the Enforcement Policy will rely on well trained and experienced staff.

3. RISK ASSESSMENT IMPLICATIONS

3.1 There are no specific risk issues for members to consider arising from this report.

4. BACKGROUND AND OPTIONS

4.1 On 21st March 2007, Cabinet approved a revised Enforcement Policy for the Authority. Further discussions are ongoing amongst Officers following approval to develop the detailed advice included in the appendix in relation to specific Council services.

4.2 The report identified a number of National developments which were expected to affect the Policy. The Better Regulation Executive is now part of the newly created Department for Business, Enterprise and Regulatory Reform (BERR). In their Document “Next Steps on Regulatory Reform” July 2007, they describe the progress being made on regulatory reform, the pace of which is currently rapid. A few of the issues that relate to regulatory activity include the following:-

- a) Rethinking consumer protection legislation – examining the scope for simplification of existing legislation, enhancing flexibility and future-proofing, greater targeting of action on higher-risk sectors
- b) Relieving the burden of Health & Safety risk assessment in small and lower-risk businesses
- c) Helping people understand regulation
- d) Implementing a Compliance Code on Regulators.

4.3 A draft Enforcement and Sanctions Bill has been published which will give the Local Better Regulation Office statutory powers to promote greater consistency amongst local authorities, and between them and central government, providing a better basis for keeping burdens for regulation on businesses to a minimum. The Bill also incorporates proposals that implement four recommendations from the Macrory Review, “Regulatory justice: Making Sanctions Effective” to make available to regulators, in the words of BERR, “an extended, more flexible and modern sanctioning toolkit that is better able to meet their needs in the Hampton world”.

4.4 Also published for consultation is a Regulators Compliance Code. This is intended to be a statutory Code which requires regulators to have regard to its provisions when carrying out our regulatory functions. The Code’s aim is to “promote a positive approach to regulatory inspections and enforcement that improves regulatory outcomes without imposing unnecessary burdens on regulated entities”. It will replace the voluntary Enforcement Concordat.

4.5 Government Departments and Agencies involved in regulatory action have had to produce simplification plans showing how Government will reduce the cost of complying with regulation. The combined effect of these simplification plans, and the activities of the BERR, mean that the enforcement options of each

regulator within the Council, and therefore their enforcement activity, are very likely to change within the next 12 months. The changes would need to be considered as and when they are published.

- 4.6 In view of these imminent changes, and as many initiatives are due to come into effect in early 2008, the revision of the current Enforcement Policy at the moment would not seem worthwhile.

5. COMMENTS OF THE HEAD OF FINANCIAL SERVICES

- 5.1 There are no immediate financial implications arising from the recommendations of the report.

6. COMMENTS OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

- 6.1 The imminence of changes to the area of regulation would have a considerable effect on Council regulatory activity, especially in relation to businesses.

7. COMMENTS OF THE HEAD OF HUMAN RESOURCES

- 7.1 There are no immediate Human Resource implications arising from this report.

8. CONCLUSION

- 8.1 Considerable changes are envisaged during the coming 12 months which will have an impact on regulatory options and activities available to Council Departments. The changes need to be considered by regulators as and when they are published.

- 8.2 The Council could adopt an Enforcement Strategy as one of the tools for delivery of Council Policy, which would include objectives, how it fits with other Council initiatives, how authorization and delegation is linked to competence, reporting and monitoring arrangements and a review process. The Enforcement Policy, following revision in the future, would then represent the operational means by which enforcement is used.

9. RECOMMENDATION(S)

- 9.1 That Members note the changes underway and approve deferral of further work pending information on legislative changes.
- 9.2 That the Scrutiny Task and Finish Group be re-convened to consider legislative changes when these are published.

10. CONSULTATION CARRIED OUT

- 10.1 Not appropriate at this stage.

11. EQUALITY IMPACT ASSESSMENT

Is an Equality Impact Assessment required

Not at this stage

Is an Equality Impact Assessment attached

No

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Background Papers	
Document	Place of Inspection
Next Steps on Regulatory Reform, Department for Business, Enterprise & Regulatory Reform July 2007	www.cabinetoffice.gov.uk/ regulation/reform/next_steps/
Regulatory Enforcement and Sanctions Bill	www.cabinetoffice.gov.uk/ regulation/enforcement_sanctions_bill/
A Code of Practice for Regulators – A Consultation. Cabinet Office, May 2007	www.cabinetoffice.gov.uk/ regulation/reform/enforcement_concordat/index.asp
Macrory Review, Regulatory Justice: Making Sanctions Effective	www.cabinetoffice.gov.uk/ regulation/reviewing_regulation/penalties/index.asp