

Title: **Corporate Enforcement Policy**

Portfolio holder: **Councillor Linda Conley, Councillor Tony Phillips and Councillor Roy While**

Reporting officer: **John Carter (Environmental Health Service Manager)**

Key decision: **No**

Purpose

This report seeks Cabinet endorsement of a new corporate enforcement policy, and for Cabinet to refer it on to Council for approval.

Background

The Council has signed up to the Government's Enforcement Concordat. The existing enforcement policy was approved by Council in 2003. A corporate policy is regarded as good practice and is required by Best Value Performance Indicator (BVPI) 166, which relates to environmental health and housing services. Due to the size of the document, this report has been circulated to members of the Cabinet and is available on request to all other Members, and is also available in the Members' room.

The Council undertakes a wide range of enforcement work, and the following services were involved in the review of the existing policy.

- environmental health
- revenues and benefits
- development control
- property and estates
- commercial services
- building control, and
- legal and democratic services

The aim of the policy is to ensure that any enforcement action taken by the Council complies with three principles:

- consistency
- proportionality, and
- openness

It implements a staged approach to enforcement dependant of the degree of risk, harm and urgency of each situation.

A review process started several months ago involving a team of officers from all services which have enforcement roles, with support from legal and democratic services.

The corporate policy has been amended in light of the increased use of fixed penalty notices, better regulation best practice and now includes a section on naming and shaming of convicted offenders.

The policy is a fairly concise document with a number of appendices, which cover specific legislative requirements. These appendices may be updated in line with legislative changes.

A draft policy was sent out for consultation in April to the West Wiltshire Economic Partnership and to the Wessex Association of Chambers of Commerce. The policy has also been placed on the Council's website for consultation. In addition, the local Registered Social Landlords had a briefing on the policy at one of their meetings with Housing Services, and have had an opportunity to comment.

Key issues

- Each service will have its own enforcement procedures which sit below the policy (e.g. car parking procedures).
- Administrative penalties (including fixed penalty notices) are covered by the new policy.
- Publicising convictions (naming and shaming) will only be considered where a criminal conviction has been gained but not for fixed penalty notices as these are not convictions but an administrative penalty paid instead of a conviction. This follows advice from the Information Commissioner's Office, an independent public body which promotes good practice on personal information, and investigates complaints under the Data Protection Act. More information on this is given in the attached Annexe A.
- The policy refers to regulatory best practice which is being developed through the Government's 'better regulation' initiative.

Effect on strategies and codes

The effective use of regulation (from advice to enforcement) can assist in improving our market towns, and contributes to efficient and effective service delivery.

Risk management implications

Compliance with the policy improves the consistency of any regulation taken by the authority, so reducing the reputational risk of adverse publicity arising from unsuccessful enforcement action.

Finance and performance implications

There are no financial implications associated with the policy. Performance against BVPI 166 is partly reliant on having an enforcement policy.

Legal and human rights implications

Human rights are specifically addressed in Appendix 1 to the policy, and the policy itself ensures that the relevant legal implications are considered when enforcement activities are carried out.

Next Steps

The policy needs to be referred to Council for approval.

Recommendations

Cabinet is recommended to:

- endorse the policy, and
- refer it to Council for approval

Background papers

Enforcement policy file - Room GC -1.