

Executive 26th August 2021

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| Report Title | Enforcement Policy |
| Report Author | Iain Smith, Assistant Director – Regulatory Services |
| Lead Member | Cllr Steven North – Executive Member for Growth and Regeneration Cllr Andy Mercer – Executive Member for Housing and Community |

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| Key Decision | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Is the decision eligible for call-in by Scrutiny? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Are there public sector equality duty implications? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Does the report contain confidential or exempt information (whether in appendices or not)? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Applicable paragraph number for exemption from publication under Schedule 12A Local Government Act 1974 | |

List of Appendices

Appendix A – North Northants Enforcement Policy

1. Purpose of Report

- 1.1. The Enforcement Policy was drafted as a whole council document ready for vesting day and approved in principle by Shadow Executive in March 2021. The Policy needs to be approved by the Executive following updates and amendments made since it was approved in principle in March.

2. Executive Summary

- 2.1 This report presents for approval the Enforcement Policy. The policy was approved in principle by the Shadow Executive in March 2021. At the time of presentation at Shadow Executive it was noted that the Enforcement Policy Statement for Building Control was not available at the time of submission and would be required to be included at the earliest opportunity.

- 2.2 The Enforcement Policy in Appendix A now includes the Building Control requirement. In addition, each of the main enforcement services undertook a further review to ensure the policy is up to date. The Private Sector Housing Enforcement section has also been updated to include legislation that came into force on the 1st of April 2021 in addition to reviewing the content for consistency and clarity.
- 2.3 The policy has also been transferred into the new corporate policy template and necessary checks undertaken to ensure it meets the required accessibility standards in order to be added to the council's website.

3. Recommendations

3.1 It is recommended that the Executive:

- a) Approve the Enforcement Policy attached at Appendix A

Reasons for recommendations

3.2 The adoption of an enforcement policy by the Council provides clarity as to the regulatory approach which will be adopted by the Council. Adoption of the policy ensures that the Council discharges its obligations under the Regulator's Code, issued by the Better Regulation Delivery Office (BRDO) pursuant to the Legislative and Regulatory Reform Act 2006.

4. Report Background

- 4.1 The Enforcement Policy was developed through the Future Northants Programme as a key policy to be in place for vesting day¹. The policy was redesigned to be one policy for the whole authority instead of multiple enforcement policies across a variety of services. It sets out the key principles under which officers will seek to achieve compliance with legislation they enforce and provides an overarching framework for regulatory activity.
- 4.2 The purpose of the policy is to secure an efficient, proportionate, consistent and effective approach to all regulatory, inspection and enforcement activity undertaken by the Council. The effect of the policy will be to improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations, and the Council.
- 4.3 In furtherance of the above aims, the policy addresses a wide range of issues including:
- 4.3.1 Standards for enforcement officers, including openness and honesty;
- 4.3.2 Proportionality and consistency;
- 4.3.3 Available enforcement activity and action;

¹ The date of implementation of local government reorganisation in Northamptonshire - 1 April 2021

- 4.3.4 Relationship with other remedies, e.g. proceeds of crime applications;
 - 4.3.5 Promotion of equality and diversity, and recognition of human rights;
 - 4.3.6 Evidence gathering;
 - 4.3.7 Charges and costs.
- 4.4 The draft policy was approved by the Shadow Executive in March 2021 in principle; however it was noted that there were areas that required completion. This work has now been concluded and the policy is recommended for adoption.

5. Issues and Choices

- 5.1 The Council is required to have an enforcement policy in place and published on the website in order to detail how and when enforcement action may be taken. The policy provides an overview of the Council's approach to enforcement and when action will be taken. There are a number of services across directorates that have enforcement powers, therefore each area has, within separate schedules, specific detailed enforcement powers that may be utilised.
- 5.2 The enforcement policy has now been updated to include enforcement appendices for all of the Council's activities. The Shadow Executive sought updates to, and completion of, the enforcement policy, which has now been undertaken. The policy provided in Appendix A has been re-designed into the new corporate policy template and meets the accessibility criteria for publication on the website.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 The Council is required to ensure that officers undertaking enforcement are appropriately resourced and trained in using the powers within their respective services. This includes continual professional development and formal training to competency in using specific equipment.
- 6.1.2 The enforcement services are resourced within existing budgets and training and recruitment processes are in place to ensure staff with the right training and experience for the role are recruited.

6.2 Legal

- 6.2.1 Part 2 of the Legislative and Regulatory Reform Act 2006 (LRRRA 2006) relates to the exercise of regulatory functions and prescribes at section 21 that those exercising regulatory functions must have regard to the statutory principles:

- (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
- (b) regulatory activities should be targeted only at cases in which action is needed.

The LRRRA 2006 also made provision for the adoption of a Regulators Code, which was issued by the Better Regulation Delivery Office and came into force on 6 April 2014. The Council has a statutory duty to have regard to this code when developing policies and operational procedures in respect of regulatory activities. It also requires regulators to publish clear and transparent information on their enforcement policy, explaining how they will respond to non-compliance. Departure from the published enforcement policy must be exceptional, justified and approved by an appropriate manager.

- 6.2.2 Where a prosecution is contemplated as an outcome of application of the enforcement policy, the Code for Crown Prosecutors will be complied with, along with other nationally recognised guidance.
- 6.2.3 The Council must have due regard to the Public Sector Equality Duty under the Equality Act 2010 when carrying out any functions including developing any policies that may have any effect on any protected persons, in particular the duty to eliminate discrimination, harassment and victimisation and advance equality of opportunity and fostering good relations. Local Authorities also have a duty under the Human Rights Act 1998, when carrying out any function, not to act incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms.

6.3 Risk

- 6.3.1 In order to reduce any risk of legal challenge to the authority for legal action taken, it is necessary to have an approved and published enforcement policy that clearly sets out the council's process for enforcement action in place and published on the website.

6.4 Consultation

- 6.4.1 This policy has not been published for public consultation. This policy states how, as an authority, we will consider taking enforcement action and details the enforcement types that are available to councils nationally, they are not specific to North Northamptonshire Council.
- 6.4.2 The policy was derived from an amalgamation of existing legacy enforcement policies already in place and published across the North. As part of the Future Northants Programme the four existing policies were reviewed and combined into one policy.

6.4.3 Formal public consultation was not undertaken as part of the process pre vesting day for this policy. Best practice suggests that public consultation of the document should be considered as part of its next formal review.

6.5 **Consideration by Scrutiny**

6.5.1 This policy has not been considered by Scrutiny during its formulation but is eligible for call-in in accordance with the Access to Information Procedure Rules and the Scrutiny Procedure Rules in the Council's Constitution (Parts 5 and 7 respectively).

6.6 **Climate Impact**

6.6.1 There is no adverse climate impact arising from the adoption and application of this policy however environmental improvement will be achieved through some of the enforcement provisions provided within it.

6.7 **Community Impact**

- 6.7.1 This policy affects all areas and communities of the authority from businesses to individuals. The aim of the policy is to set out in a clear and transparent way how the Council will manage its approach to regulatory matters. The policy also explains the approaches available to the Council when determining the most appropriate action to be taken, as well as the types of powers that are available to the authority to ensure compliance.
- 6.7.2 An initial Equalities Impact Assessment has been undertaken in relation to the new policy. A full impact assessment was not required as the policy has a neutral impact across all groups.

7. **Background Papers**

7.1 The following documents have been utilised in the drafting of this report:

7.1.1 BDRO - Regulators Code - April 2014;

<https://www.gov.uk/government/publications/regulators-code>

7.1.2 Legislative and Regulatory Reform Act 2006;

<https://www.legislation.gov.uk/ukpga/2006/51/contents>

7.1.3 Legislative and Regulatory Reform (Regulatory Functions) Order 2007

<https://www.legislation.gov.uk/uksi/2007/3544/contents/made>