

Extraordinary Shadow Executive (Cabinet)



Title of Report:	West Suffolk Council Overarching Enforcement Policy		
Report No:	EXC/SA/19/004		
Report to and date:	Extraordinary Shadow Executive (Cabinet)	8 January 2019	
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Purpose of report:	To agree the harmonised West Suffolk Council Enforcement Policy		
Recommendation:	The Shadow Executive is <u>RECOMMENDED</u> to adopt the West Suffolk Council Enforcement Policy, as contained in Appendix A to Report No: EXC/SA/19/004, to take effect from 1 April 2019.		
Key Decision: (Check the appropriate box and delete all those that <u>do not</u> apply.)	Is this a Key Decision and, if so, under which definition? Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>		
The decisions made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.			

Consultation:		<ul style="list-style-type: none"> Public consultation took place from 30 October to 11 December 	
Alternative option(s):		<ul style="list-style-type: none"> An alternative approach would be for the council not to adopt an overarching policy and to rely on individual policies within service areas. However, this would risk inconsistency of practice between different regulatory regimes, which would place additional burdens on businesses and undermine the council's reputation as a regulator. 	
Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> The Council needs to be able to demonstrate its compliance with the Government's Regulator's Code. An overarching Enforcement Policy gives a good opportunity to do this. 	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> A screening EqIA has been carried out 	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Policy – failure to refresh existing policy and make it effectively robust could lead to challenge and could require another policy review in the very near future (approved in 2009 and 2010)	Medium	Adopt a revised policy	Low
Reputational/Community and business – Misunderstanding of the scope of the policy (i.e. expectation that it covers the detail of individual service-specific enforcement practices)	Medium	Communications for the public consultation explained the remit of this policy. Similar explanations will be provided on the website alongside the adopted policy. Service-specific policies are available	Low

		on our website as appropriate	
Ward(s) affected:		All Ward/s	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		Joint Cabinet approval to consult on a draft West Suffolk Enforcement policy: CAB/JT/18/018 and Addendum Department for Business, Energy and Industrial Strategy – Regulator's Code 1998 Enforcement Concordat	
Documents attached:		Appendix A – draft West Suffolk Enforcement Policy Appendix B – consultation feedback summary	

1. Key issues and reasons for recommendation(s)

1.1 Background

- 1.1.1 West Suffolk councils will act as a regulator and an enforcement agency for a wide range of legal duties and powers in order to protect the public, individuals and the environment. These duties are mainly met by carrying out programmed inspections of premises, responding to complaints, issuing licences and offering advice.
- 1.1.2 The Legislative and Regulatory Reform Act 2006 requires councils to have due regard to Regulator's Code in carrying out its regulatory activity, and details the types of enforcement activity carried out by the council. In line with this government guidance, the draft policy outlines our commitment to good enforcement practice and describes when and how our officers take legal and other formal action.
- 1.1.3 A single enforcement policy for West Suffolk Council needs to be created before 1 April 2019. The current Forest Heath Corporate Enforcement Policy and St Edmundsbury Enforcement Policy were adopted in 2009 and 2010 respectively and will remain in place until this point.
- 1.1.4 The policy includes the West Suffolk principles for enforcement. The Council will carry out duties to protect public safety and the environment and to ensure an effective use of our enforcement resources. This is achieved through ensuring that any enforcement activity is:
- Transparent
 - Consistent
 - Proportionate
 - Targeted and risk-led

These principles relate to us being accountable as a regulator and will as appropriate actively work with businesses and individuals to advise and to assist with compliance and requests for help.

- 1.1.5 These principles stem from those originally set out in the 1998 Government Enforcement Concordat, which has been superseded in some respects by the Regulator's Code, adopted in 2014. These principles have been adapted according to best practice and making sure they accurately reflect the West Suffolk approach to enforcement.

1.2 Updating our overarching enforcement policy

- 1.2.1 The Enforcement Policy is a statement about the Council's approach to enforcement across all services with enforcement duties, although it should be noted that some services have specific legislative guidance and regulations (such as the taxi licensing handbook). The policy is intended to provide best practice guidance for officers, businesses and residents rather than to set down a prescriptive set of rules.
- 1.2.2 Despite the overarching nature of the policy, there are some details that need to be updated on a regular basis. The opportunity has been taken to

refresh the approach from that in the current policies approved in 2009/2010 according to new government guidance, such as the 2014 Regulator's code.

1.3 Alignment across West Suffolk

- 1.3.1 The new proposed policy for West Suffolk aims to align the key principles across West Suffolk and includes similar principles to those of the current Forest Heath and St Edmundsbury policies.
- 1.3.2 The draft policy also includes good practice aims such as reducing regulatory burden, risk-led enforcement and supporting the local economy. This is an expansion of those detailed in the 2010 St Edmundsbury policy.
- 1.3.3 The draft policy follows a new structure and aims to guide the reader through the key principles and enforcement actions where we desire consistency to all council services. This includes omission of the following details, alongside the rationale:
 - Service specific enforcement procedures – these are published where appropriate, such as if there are prescribed guidance to follow.
 - General fines and charges – all published on the council website and reviewed annually
 - Contact details for specific services - these can be found on the council website where appropriate
 - Financial penalties outlined by certain Acts (Clean Neighbourhoods and Environment Act 2005, The Dogs (Fouling of Land) Act 1996 and the Health Act 2006 – all outlined in separate (West Suffolk) policies
 - Regulation of Investigatory Powers (RIPA) guidance – reviewed in 2018.

2. Consultation and Recommendation

2.1 Public Consultation

- 2.1.1 A public consultation was held between 30 October to 11 December 2018 and invited comments on the draft West Suffolk Enforcement Policy. The consultation was advertised on the West Suffolk website and the public were invited to feedback via an online survey. The following summary is correct at the time of writing this report but any further feedback will be provided as an update to Members at the meeting and will be included in a future Cabinet report.
- 2.1.2 Licensing and Regulatory Committee Members were informed of the details of the interim policy changes and consultation and had the opportunity to provide ideas for the future policy review.
- 2.1.3 Key stakeholders were contacted directly and invited to comment via the survey. This included Trading Standards and neighbouring local authority enforcement officers, such as relevant authorities and Suffolk Chamber of Commerce and Newmarket and Bury St Edmunds Business Improvement Districts (BIDs) as representatives of West Suffolk businesses.

2.1.4 We received ten responses to the survey, including:

- A police licensing officer
- A Forest Heath resident
- Two St Edmundsbury residents
- Two councillors
- Two Parish Councils
- Two business owners or employees (one from Forest Heath and one from St Edmundsbury)

Further details about the consultation responses are set out in **Appendix B**.

2.1.5 A majority of the responses reflected acceptance of the proposed policy, specifically the principles of enforcement, range of enforcement options and the complaints and comments provision.

2.1.6 One Parish Council raised concerns about the lack of detail relating to specific services in terms of the enforcement options and wider service standards information. Their concerns also included not being kept up to date about recent and current enforcement issues. We have responded in the following ways:

- We have ensured that our policy clearly reflects that it is an overarching policy and detail relating to some specific services, such as service-specific policies, standards and contact details, is available on the website where relevant.
- It should be noted that we do not currently publish our routine enforcement activity, as doing so could release personal or commercially sensitive information, unless it is within the public interest and proportionate to do so. As stated in our policy, publicity may be used when there are ongoing breaches of the law in order to raise awareness, warn residents and increase compliance. We were appropriate update individuals and involve other authorities including parish councils when it is relevant to a particular case.

2.1.7 Given that the concerns raised during the consultation relate to operation of enforcement, rather than this overarching policy, no substantive changes have been made in response. The only change made to the policy since consultation relates to our commitment to protecting equality and diversity in paragraph 2.2.3. This text has been updated in order to strengthen our statement of commitment to protect equality and diversity. The new text is highlighted in red in **Appendix A**.

2.2 **Recommendation**

2.2.1 It is recommended that the draft policy is adopted for the new West Suffolk Council.

2.3 **Community Impact**

2.3.1 Given that the harmonised policy is a guide for officers and contains the same enforcement options as the current Forest Heath and St Edmundsbury

policies, a screening EqIA found that there were no equality and diversity implications that required mitigating actions. The draft policy emphasises the council's commitment to equality and diversity in carrying out regulatory activities.

2.3.2 The policy supports the aims and objectives set out in the West Suffolk Strategic Framework through:

- Supporting the 'West Suffolk Way' of working to empower "families and communities to create positive and healthy futures" by working in a way that helps to create safe places, recognises individuals and their needs and strengths, understands relationships and connects people".
- Supporting our commitment to increased and improved provision of appropriate housing in West Suffolk in both our towns and rural areas through our role as a local housing and planning authority, a regulator, an investor and local influencer.

It also complements the policies of our services with enforcement duties such as planning, building control, housing, waste and environmental health.