
**Decision Session – Executive Member for
Neighbourhoods**

24th March 2010

Report of the Director of Neighbourhood Services

**Update of the Environmental Health, Trading Standards, Licensing,
Street Environment and Enforcement Services Enforcement Policy**

Summary

1. The purpose of this report is to seek approval by the Executive Member for an updated and consolidated enforcement policy for City of York Council Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services Enforcement Policy.

Background

2. The current version of the Environmental Health, Trading Standards and Licensing Services (EH, TS and Licensing) Enforcement Policy was approved by Members in June 2008. The current version of the Street Environment and Enforcement Services (SES) Enforcement Policy was approved by Members on December 2006. Approved enforcement policies are necessary to ensure that the actions of officers cannot be subject to an ‘abuse of power/process’ challenge in the Courts.
3. From December 2007 all local authority enforcement policies are required to comply with the ‘Statutory Code of Practice for Regulators’ (the Code) made under the section 23 of the Legislative and Regulatory Reform Act 2006. Both the current EH,TS and Licensing and SES Enforcement Policies were written to meet the standards in the Code and are therefore very similar.
4. The nature of cases investigated by EH,TS and Licensing and SES officers has evolved over recent years. Prosecutions are now only taken ‘in the first instance’ for serious matters and cases put before the Courts are often classified acquisitive crime i.e. the acquiring of assets (including money) from offences such as fraud, intellectual property crime or fly tipping. Such matters can now be subject to a financial, or money laundering, investigation under the Proceeds of Crime Act 2002. A financial, or money laundering, investigation will determine if there is an opportunity to apply to the Court for those assets to be confiscated.

Proposed Updated Enforcement Policy

5. Annex 1 to this report is a proposed updated and consolidated Enforcement Policy for EH, TS, Licensing and SES which outlines the circumstances under which a financial investigation will be carried out.

Consultation

6. The council's legal services department have been consulted on the wording of the updated Enforcement Policy.
7. It is a requirement of national performance indicator 182 to measure the satisfaction of businesses with the council's EH, TS and Licensing services. Surveys have been conducted regularly with businesses for a several years including those that have been found 'non compliant' and subject to formal enforcement action. No negative feedback has been received in relation to the current EH, TS and Licensing Enforcement Policy.

Options

8. (a) To approve the updated enforcement policy.
(b) To reject the updated enforcement policy.

Analysis

9. Option (a) will allow the council's environmental health, trading standards, licensing, street environment and enforcement services to continue to take formal enforcement action against those businesses and individuals in the circumstances outlined in the policy.
10. Option (b) would mean that if the council's environmental health, trading standards, licensing, street environment and enforcement services took formal enforcement action outside the scope of current Enforcement Policies then the matter may be open to a legal challenge in the Courts.

Corporate Priorities

11. The enforcement activities of the council's environmental health, trading standards, licensing, street environment and enforcement services contribute to the council's strategic ambition of creating a Thriving, Safer, Sustainable and Healthy City.

Financial Implications

12. There are no financial implications.

Human Resources

13. There are no human resource implications.

Equalities

14. There are no equalities implications. The services to which this enforcement policy relates has the “customer service excellence” award and as such all equalities issues have been considered.

Legal Implications

15. Local authorities exercising a regulatory function are obliged to have regard to the Code of Practice when formulating its enforcement policy

Crime and Disorder

16. There are no crime and disorder implications.

Information Technology (IT)

17. There are no IT implications.

Risk Management

18. In compliance with the council’s risk management strategy. There are no major risks associated with the recommendations of this report.

Recommendations

19. That the executive member adopt Option a) in paragraph 7 and approve the updated Enforcement Policy.

Reason: To allow the council’s environmental health, trading standards, licensing, street environment and enforcement services to continue to take formal enforcement action against those businesses and individuals in the circumstances outlined in the policy.

Contact Details

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Report Approved **Date** 4th March 2010

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Environmental Health, Trading Standards and Licensing Services Enforcement Policy (June 2008)
Street Environment and Enforcement Services Enforcement Policy (December 2006)

Annexes:

Proposed updated enforcement policy