

Report template for DLT/CLT/Leadership/Executive Panel

Meeting	Tick if Applicable	Date Scheduled
DLT	X	22 May 2023
CLT	x	13 June 2023
Leadership		N/A
Executive Panel		N/A
DDM		N/A

Please note: If the report is already drafted in an Executive Board format, this can be submitted rather than using the template below.

Item Name: Nottingham City Council Enforcement Policy

Corporate Director and Lead Officer: **Ita O'Donovan, Colin Wilderspin and Paul Dales, Pete Mitchell**

Lead Portfolio Holder: Cllr Sajid Mohammed

Required Length of Time for Discussion: **15 minutes**

1. Purpose:

1.1 To inform CLT of the revised Council Enforcement Policy before adoption through a Delegated Decision.

2. Recommendations:

2.1 CLT to note the revised Enforcement Policy which is the first substantive review since introduction in 2016.

2.2 CLT to note that the review and adoption of the Enforcement Policy ensures the Council is compliant with the requirements of the statutory Regulators' Code 2014.

2.3 CLT to note the review of Communities Directorate Service Standards document.

2.4 CLT to note the recommendation that other Directorates with enforcement duties devise their own Service Standards documents that are complementary to the Council Enforcement Policy and align with Communities' Service Standards document.

3. Governance Interdependencies

- 3.1 Better regulation initiatives have existed for a considerable time and consistency across regulators was promoted through government Compliance Codes. The Regulators Code placed the previous recommendations on a statutory basis, and it came in to force on 6 April 2014.
- 3.2 The Legislative and Regulatory Reform (Regulatory Functions) Order 2007 details the legislation that must be enforced in accordance with the Regulators Code. [Link to list of regulations [The Legislative and Regulatory Reform \(Regulatory Functions\) Order 2007 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/2007/1251)]. It is an extensive list and incorporates most legislation primarily enforced within Environmental Health, Fire Safety, Sports Grounds Safety and Trading Standards services. If the Regulators Code does not specifically apply to a legislative provision, then the foundation document that must be considered by Regulators is the non-statutory Enforcement Concordat which is similar in principle and was published in 2003. (Appendix 3)

4. Proposal or Issue:

- 4.1 The Regulators' Code 2014 requires that Nottingham City Council as a Regulator adopts and publishes an Enforcement Policy that clearly sets out how it will enforce the various Acts, Regulations and Orders it is empowered to enforce. The Policy reflects the Code's principles of acting proportionately, transparently, promoting compliance and to understand and minimise the negative impact of regulatory activity on businesses while tackling 'rogue traders' in order to achieve a fair-trading environment in the City.
- 4.2 The Policy sets out how Nottingham City Council will carry out its role as a Regulator for many statutory and non-statutory functions.
- 4.3 The key changes introduced with the Regulators Code in 2014 was the 'Growth Duty'. This requires Regulators to carry out their activities in a way that supports those they regulate to comply and grow;
- Understand and minimise negative economic impacts of their regulatory activities
 - Minimise the costs of compliance
 - Encourage and promote compliance. The Food Hygiene Rating Scheme is an example of a 'nudge' approach to promote higher business standards through transparency to customers.
- 4.4 The Code seeks to promote proportionate, consistent and targeted regulatory activity to ensure the protection of the vulnerable as well as the promotion of environmental public health and social objectives. The educative, evidence-based approach complements the philosophical basis of the officers' professional vocation to promote knowledge building in citizens about environmental public health and protecting the vulnerable from harm. These protections are the fundamental reason for the legislation, but it is educating

citizens to change behaviour that is the important outcome. This is reflected in the very small percentage of formal legal actions that are taken forward because most businesses want to comply. The art of officers' day-to-day interactions is to supportively translate the complex legislation into meaningful relatable advice appropriate for the circumstances so as to initiate change in their understanding and behaviours that protect public health and safety that lasts beyond the period of the visit/intervention. Enabling citizens to self-assess and apply evidence-based management control measures is the intended outcome. Occasionally different legislation can have competing or conflicting demands on a business or individual and this is carefully considered and discussed to assess overall risks and agree a proportionate way forward. Officers routinely identify hazards but the method of control may need further investigation such as through sampling, examination or analysis. Interpreting complex technical results and translating in to meaningful controls for business owners to manage is an essential element of the educational approach to applying protective measures that are proportionate.

An example of working collaboratively with a business to ensure a common goal is achieved efficiently is that of the Safer Business Team regulating the private drinking water borehole extraction facility at QMC and City Hospital sites. A long-standing close working arrangement with the site engineers ensures that Environmental Health can carry out the statutory monitoring required by the Drinking Water Inspectorate standards. Water sampling for microbiological and chemical analysis is permitted to be undertaken by the site engineers as trusted partners using agreed laboratories and the results provided week-to-week to ensure our check-monitoring duties are fulfilled as well as enabling the comprehensive statutory returns completion. A similar close working relationship with technical managers for the cook-freeze food production/regeneration facilities at QMC also ensures that there is a joint understanding of safety priorities and any ongoing developmental improvements.

4.5 Regulators must ensure that their officers have the necessary knowledge and skills to support and understand those businesses that they regulate.

4.6 Official control inspections/interventions should be targeted on a risk basis.

4.7 The Communities Directorate Service Standards document is separate to the Enforcement Policy. It provides additional information about the departmental activities and service expectations. This has also been updated in draft form. (attached as appendix 2)

4.8 A Communities training presentation has been devised to reinforce the principles and promote consistency within and between teams. (Appendix 4)

5. Financial Implications:

5.1 There are no expected financial implications to this enforcement policy review. Any additional costs subsequently identified would need to be met within the existing MTFP for Communities.

Susan Turner – Senior Commercial Business Partner

6. Legal Comments –

6.1 The approval of the recommendations is within the Council's powers and Legal have advised on the revised policy. This is the first review of the policy since it was adopted in 2016, which includes minor amendments to the text and refers to additional enforcement action that the Council may take, which includes imposing civil penalties as an alternative to prosecution. Legal is also in agreement that other Directorates with enforcement duties should devise their own Service Standards documents that are complementary to the Council Enforcement Policy and align with Communities' Service Standards document.

Sarah Mills, Legal Services,

7. Constitutional Considerations – none.

8. Procurement Observations. N/A.

9. Risk management considerations:

The Regulators Code has a statutory basis and in continuing to adopt and publish the Enforcement Policy the authority discharges its duty and provides clarity of purpose to those that are subject to regulatory actions by the Council. It also provides an escalation process for where the Council is itself the proprietor of a business or is responsible for other compliance matters. The general principles of the Enforcement Policy will apply to the Council's own compliance.

10. HR and EDI Considerations: Various existing adopted policies that form part of the Council's regulatory processes have been subject to EDI considerations at the respective committees. This Enforcement Policy supports the overarching aim to ensure enforcement is proportionate and reasonable in the circumstances of each case. The policy does not negatively impact on any persons with protected characteristics as its core purpose is to support transparency of regulatory actions and its design purpose is for the protection of vulnerable groups. All persons will benefit from public protection policies and regulatory interventions being administered in accordance with the Enforcement Policy.

11. Carbon Reduction and Sustainability Considerations: N/A

12. Input from other internal departments

12.1 The draft Enforcement Policy document was circulated to colleagues in Planning and Regeneration, Economic Development and Property, and Highways Team who together with Communities Directorate form the predominance of regulatory intervention actions by the Council. Comments and suggestions received were considered and as appropriate included in the revised Enforcement Policy.

13. Next Steps

Subject to approval of CLT the Enforcement Policy will progress to formal adoption through a Delegated Decision.

END.

Paul Dales
Environmental Health Manager - Safer Business
Environmental Health and Public Protection

13 June 2023

Appendices

1. Nottingham City Council - Enforcement Policy
2. Nottingham City Council – Communities Directorate Service Standards
3. Enforcement Concordat
4. Model presentation for officers