

CABINET

18 OCTOBER 2021

CORPORATE ENFORCEMENT STRATEGY 2021-2024

Report of the Strategic Planning Manager

Recommendation(s)

It is recommended that Cabinet

- i) approves the attached draft Strategy (Appendix 1).
- ii) agrees that the Chief Executive be authorised to reapprove the Strategy every three years and make minor amendments to the adopted Strategy as required.
- iii) agrees that approval of service specific enforcement policies be approved by Executive Head of relevant services in consultation with Portfolio leads.

Summary

This Strategy provides an overarching set of principles for all enforcement carried out by the Council. Separate enforcement policies determine specific approaches for individual areas of enforcement.

Statutory Powers

Section 1 of the Localism Act 2011 i.e. the Local Authority's general power of competence, including power to act for the benefit of its area or persons resident or present in its area.

Legal powers and duties referenced in the Strategy.

Corporate Plan Objectives

1. This report relates to a number of Corporate Plan objectives due to the way different enforcement activities aim to improve the environment, health and wellbeing and economy of the Borough.

Introduction

2. Councillors have previously suggested a renewed policy approach to enforcement. Previous policy documents were out of date and insufficient to support a robust legal approach. At the same time the Council's Internal Auditors identified that the Council lacked an overarching enforcement strategy.

Corporate Enforcement Principles

3. The Council carries out a wide range of regulatory functions under various statutes, regulations and guidance. Good practice and industry bodies suggest that such regulatory activity is carried out according to a set of principles that are most likely to result in sustainable positive results for the Borough's residents and businesses.
4. Councillors have signalled that a number of policy principles should be included:
 - (a) Minimising delays to resolving enforcement cases.
 - (b) Improved communication of activity and results of enforcement activity to promote confidence in the Council.
 - (c) Increased enforcement in relation to development so that the supply of housing is increased but without negative impact on communities.
5. Discussions with a range of internal stakeholders (Lead Specialists, Internal Audit, Local Area Manager (BHH) and the responsible Corporate Director) has led to an overarching Corporate Enforcement Strategy which includes both enforcement good practice principles and overall policy approaches set by Councillors. Detailed approaches for specific areas of enforcement, including what the Council is and is not able to remedy by enforcement, should be articulated in bespoke policies for each area e.g. [Planning Enforcement](#), [Parking](#), Houses of Multiple Occupancy (HMO) licencing, Noise nuisance etc. and reflected in annual operational service plans.
6. Such policies will be kept under review or developed through discussions with relevant Cabinet members and key staff such that the approach aligns with this Strategy.

Consultation feedback

7. The Strategy was approved by Cabinet for public consultation on 24 October 2019 and a consultation was held from 24 February 2020 to 6 April 2020.
8. Policy and Performance Scrutiny Panel considered this draft Strategy on 22 January 2020. The Panel commented that the Strategy should articulate more clearly the Council's approach to pursuing enforcement action. It is important to note that the Strategy is intended as a set of guiding principles to ensure consistency and is not therefore expected to set out service standards or how

enforcement action will be pursued in detail. This detail can be found in individual enforcement policies.

9. The public consultation invited comments on the draft Strategy document itself, and also sought views on the Council's approach to different types of enforcement. The consultation was published on the Council's website and promoted directly to: taxi and private hire trade, alcohol and gambling consultees, the voluntary sector, Hampshire County Council, Southampton City Council, the Environment Agency, Natural England, West Hampshire Clinical Commissioning Group, groups with protected characteristics, and Hampshire Police. There were 84 responses, including 8 from organisations (taxi firms, retailers, Police, community organisations).
10. The consultation found that respondents were supportive of the following principles in the Strategy:

Principle	High or Very High importance - %	Reference in the Strategy
Telling residents and businesses more about the Council's enforcement activity, to demonstrate our protection of individuals, businesses and the environment.	79	Para 8, page 5
Ensuring that there is a limit to the time given for people/businesses to comply with regulations.	76	Para 1.4, page 2 (amended)
Joining forces with other agencies (e.g. the Police) where appropriate and necessary to achieve a successful outcome.	72	Para 6.3, page 4
Managing carefully the role of any external enforcement agency the Council uses eg bailiffs.	72	Para 1.12, page 3
Preventing the need for formal action in most cases by educating and working with people/businesses.	72	Para 1.6, page 2. Appendix B para 1
Recovering any of the costs of enforcement that we can	70	Appendix B, para 10
Taking into account issues of diversity, disability and vulnerability when considering what enforcement action to take.	64	Para 7 page 5

11. In most respects the Strategy already reflects the support for these principles. An amendment to the Strategy is proposed (see amended text at Para 1.4 of the Appendix 1) to strengthen the principle about timeliness of enforcement action.
12. Other amendments are minor corrections of errors or formatting in the draft or to bring the document up to date following the Council's management restructure earlier this year.

13. The areas where respondents most wanted the Council to be taking more action were: flytipping (85%), antisocial behaviour (84%), noise nuisance (62%), air and water pollution (61%). This feedback will be shared with service managers for their consideration.

Financial Implications

14. The attached Strategy has no financial implications; financial implications relating to specific areas of enforcement will be assessed during service planning and any proposals made for budgets at the relevant time.

Risk Assessment

15. The Council risks having its prosecutions and appeals challenged and having an incoherent approach to enforcement unless it adopts a set of guiding principles. This Strategy demonstrates the Council's commitment to fair enforcement and supports the Corporate Plan 2015-2025 objectives.

Equality and Diversity Implications

16. The Equality Act is relevant to the decision in this report as the decision relates to eliminating discrimination, advancing equality of opportunity, or fostering good relations between different people. Different enforcement activities may affect groups in different ways.
17. An Equality Impact Assessment is attached to this report at Appendix 2. It shows that people with some protected characteristics are positively impacted by enforcement. The Strategy is clear (at Para 7 on page 5) that enforcement duties apply across all groups, and that the Council will give appropriate consideration to its equalities duties in carrying out enforcement activity.

Climate and Environment Emergency Implications

18. There are no negative implications of this Strategy, which is designed to have positive impacts on the environment

Conclusion

19. The attached Strategy sets out the principles that will be applied in all of the Council's Enforcement activity and is recommended for approval.

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STRATEGIC PLANNING MANAGER

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Appendices Attached: Draft Corporate Enforcement Strategy – Appendix 1
Equality Impact Assessment - Appendix 2

Report No

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

None.