

**Report of: Environmental Health Business Manager**

**To: Executive Board**

**Date: 29th January 2007**

**Item No:**

**Title of Report: Clean Neighbourhood Enforcement Protocol**

### **Report Summary**

**Purpose of report:** To obtain the approval of the Executive Board to consult stakeholders on the proposed Clean Neighbourhood Enforcement Protocol.

**Portfolio Holder:** Councillor Jean Fooks

**Scrutiny responsibility:** Environment

**Ward(s) affected:** All

**Report Approved by:** Councillor Jean Fooks (Cleaner City Portfolio Holder) Jeremy Franklin (Legal Services), Ian Wright (Environmental Health), Andy Collett (Financial and Asset Management)

**Policy Framework:** This supports the City Council's vision of improving the environments where we live and work

**Recommendation:**

- ◆ To approve the draft Clean Neighbourhood Enforcement Protocol for consultation with relevant stakeholders.

### **Introduction**

1. The demands of the Cleaner Greener agenda have meant that a wide range of Business Units are now carrying out enforcement activities, some of whom have not traditionally had such a role.
2. In addition, some of the enforcement functions are new areas of work for the Council and are not covered by enforcement policies, protocols or procedures that already exist in Business Units such as Environmental Health.
3. Representatives of the Business Units involved in Cleaner, Greener enforcement have met and drafted up an enforcement protocol that covers the work area and which they believe is at a suitable level.

4. The protocol needs to be adopted as a corporate document following consultation since a range of Business Units carry out enforcement action across the Council.

5. The draft protocol has been approved by SMB for submission to the Executive Board and Environment Scrutiny Committee will consider it on January 15th.

### **Enforcement Seminar**

6. An Environmental Enforcement Seminar was held in November last year to which members and officers were invited. Legal Services outlined what enforcement involved and what powers were available under a variety of different Acts. Members and officers worked together in groups on a set of scenarios involving flytipping, waste on land, littering and dog fouling and agreed what actions should be taken. The findings and results have been circulated to all members and in summary:

- (a) the Council already carries out a lot of effective enforcement work e.g. warning letters and legal notices, but which does not result in cases being heard in court,
- (b) there was a notable degree of consistency of approach to enforcement amongst the working groups,
- (c) enforcement should be proportionate and expedient and not just an activity in itself,
- (d) enforcement is carried out by a range of Business Units.

### **Aims of the Protocol**

7. The aim is to provide a straightforward guide to the public and others that includes the following:

- (a) the areas of work that are covered by the protocol,
- (b) a definition of what enforcement means,
- (c) the main principles of enforcement,
- (d) what the Council is aiming to achieve by enforcement,
- (e) explanations of when enforcement action would be taken.

8. The protocol follows good practice and contains broad aims and principles rather than providing detailed step-by-step guidance. It has been drawn together with reference to other protocols/policies published by leading local authorities. It is for each Business Unit to develop their own operational procedures on how each offence will be dealt with by its staff. It is important to include flexibility in such a protocol so that the merits of each individual case can be taken into account.

9. It is standard good practice for a draft enforcement protocol to be consulted upon prior to adoption.

10. Once the protocol is approved it will be a publicly accessible document, it is proposed that at the end of the approval process it will be published on the Council's website. Once it is publicly available, examples of enforcement action could be included to provide the public with how the protocol works in practice.

11. A copy of the draft protocol is attached as appendix 1.

**The Executive Board is recommended:**

12. To approve the draft Clean Neighbourhood Enforcement Protocol for consultation with relevant stakeholders, taking into account any comments from Environment Scrutiny Committee

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*Background papers: None*

**NOTE**

The Environment Scrutiny Committee considered the report on 15 January and members made a number of comments and suggestions on the draft protocol including:

- Members identified a number of issues where the action suggested in the protocol might seem too specific and suggested that on occasions, the circumstances of a particular case may mean that an offence might be dealt with differently.
- In the case of the offence of blocking the pavement with tables and chairs outside a café, Members suggested that there might be occasions, especially during warmer weather and in keeping with the city's tourism responsibilities and where the location is suitable, a more lenient approach might be considered.
- The Committee also suggested that with regard to the types and level of offences that might be committed there could also be times when, due to particular circumstances, more positive action might be required. Referring to the section in the report dealing with 'Getting the balance right', the Committee agreed to delete the first two sentences so that it read 'The enforcement action will depend on the severity of the crime'.

The Committee resolved to ask the Portfolio Holder to take account of the Scrutiny Committee's comments on the Enforcement Protocol and it was suggested that both the reports on the protocol and the Environmental Scrutiny Review be considered together when they were submitted to the Executive Board.