

Report of: Head of Environmental Development

To: Executive Board

Date: 21 April 2008 **Item No:**

Title of Report : Statutory Code of Practice for Regulators –
Revised Environmental Development Enforcement
Policy



Summary and Recommendations



Purpose of report: To advise on the introduction of the Statutory Code of Practice for Regulators and seek agreement to the necessary amendment of the Environmental Development Service's enforcement policy to reflect its requirements.

Key decision: No

Portfolio Holder: Councillor Jean Fooks

Deputy Responsibility: Environment

Ward(s) affected: All

Report Approved by:

Portfolio Holder – Councillor Jean Fooks

Interim Executive Director – Michael Crofton-Briggs

Financial and Asset Management – Andy Collett

Legal and Democratic Services – Jeremy Franklin



Policy Framework:



Recommendation(s):

- (a)** To note the introduction of the Statutory Code of Practice for Regulators,
- (b)** to agree to the amendment of the existing Environmental Development Service's Enforcement Policy to comply with its requirements, and
- (c)** to delegate authority to The Head of Environmental Development to amend all other Enforcement Policies to incorporate its requirements.



Introduction

1. The Legislative and Regulatory Reform Act 2006 places a duty on regulators to have regard to the Department of Business, Enterprise and Regulatory Reform (BERR) Statutory Code of Practice for Regulators: Regulators' Compliance Code ("the Code"). The Code was published by BERR on 17 December 2007, comes into effect on 6 April 2008 and applies to central and local government regulatory services. (Appendix 1.)
2. The Code is a central part of the Government's better regulation agenda and is based on the recommendations in the Government-commissioned report on effective enforcement and inspection by Philip Hampton in 2005. These recommendations, known as the 'Hampton Principles', are that regulatory functions should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. The purpose of the better regulation agenda is to promote efficient and effective approaches to regulatory inspection and enforcement using these principles, resulting in improved regulatory outcomes without imposing unnecessary burdens.
3. The Code stresses the need for regulators, in carrying out their regulatory activities, to adopt a constructive and preventative approach towards ensuring compliance by:
 - helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and
 - responding proportionately to regulatory breaches.
4. The Code does not detract from regulators' responsibility to deliver the desired outcomes nor relieve regulated entities of their responsibility to comply with their obligations under the law.
5. The Code supersedes the "Enforcement Concordat" which sets out principles of good enforcement policy, comprising: standard setting; openness; helpfulness; well-publicised effective and timely complaints procedures; proportionality and consistency. It was considered in the better regulation review that its implementation was patchy and inconsistent and that it did not place sufficient weight on risk-based enforcement. Hampton recommended a new approach to regulation, with the emphasis on "securing compliance" rather than routinely carrying out inspections. The need for risk-based regulation was stressed so that the burden of enforcement falls most on the highest risk businesses with records of compliance taken into account in assessing risk.

Enforcement Policies

6. Regulators must have regard to the provisions of the Code when determining general policies or principles or when setting standards or

giving general guidance about the exercise of general functions. It should be emphasised that the Council already complies with many of the new requirements. The service already provides advice to businesses, has service standards and has policies of risk-based inspections, focusing on those businesses known to present the highest risk. Existing enforcement policies are based on the original Enforcement Concordat, but they now require amendment to incorporate the requirements of the new Code. The proposed Environmental Development Service Enforcement Policy is appended to this Report. (Appendix 2.)

Financial Implications

7. The implications of the Enforcement Policy will be managed within existing budgets.

Legal Implications

8. It is not a statutory requirement that the Environmental Development Service has an enforcement policy. However, it is best practice and a requirement of BVPI 166 and the Statutory Code of Practice for Regulators. The new National Indicators include an indicator NI 182 on satisfaction of businesses with local authority regulation services.

Recommendations

9. Executive Board is recommended to;
 - (a) note the introduction of the Statutory Code of Practice for Regulators,
 - (b) agree to the amendment of the existing Environmental Development Service's Enforcement Policy to comply with its requirements, and
 - (c) delegate authority to The Head of Environmental Development to amend all other Enforcement Policies to incorporate its requirements.

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Background papers: None

