

Report for:	Shadow Executive
Meeting Date:	31 March 2020

Title of Report:	ENFORCEMENT POLICY – REGULATORY FUNCTIONS
Shadow Portfolio Holder	Isobel Darby
Responsible Officer	Jacqui Bromilow
Report Author Officer Contact:	Jacqui Bromilow; jbromilow@aylesburyvaledc.gov.uk
Recommendations:	To agree the enforcement policy which is an overarching policy covering all enforcement activities where prosecution is an available remedy.
Corporate Implications:	<p>The report has been reviewed by Legal workstream and feedback recommends that work areas harmonise their individual enforcement policies/criteria within a short period of vesting day (except where there are specific requirements within the Orders, such as Licensing).</p> <p>An enforcement policy is required to be in place for any enforcement activities post vesting day to ensure any actions are fair. The policy must have regard to the Legislative and Regulatory Reform Act 2006 and the Regulators' Code.</p>
Options: (If any)	<p>1) Agree the policy as an overarching enforcement policy for the majority of regulatory functions of Buckinghamshire Council. Having a single overarching policy ensures that all parts of the Council that undertake enforcement activities are fair to persons and businesses affected by the policy. (Recommended)</p> <p>2) Refuse the policy as presented – this will mean that there would be no enforcement policy for the new authority, which would affect the ability for enforcement actions to be exercised. Any formal action may be scrutinised in court and could fall due to the lack of an adopted policy.</p>
Reason:	The preferred option will enable the new authority to be safe and legal post vesting day with respect to new enforcement activities and will ensure that the approach to enforcement will be consistent.




1. Purpose of Report

2. Buckinghamshire Council is required to have an enforcement policy. This report recommends the adoption of an overarching enforcement policy for the new authority. The policy at Appendix 1 to this report should ensure that any enforcement action taken, or advice given by the new authority is fair to persons and businesses affected by it.

3. Content of Report

4. As part of ensuring that Buckinghamshire Council is 'safe and legal' post vesting day it was identified that an enforcement policy was required to cover the regulatory functions which currently sit within the Regulatory Workstream (namely Environmental Health, Licensing and Trading Standards) and the activities of Private Sector Housing and anti-social behaviour which are in different workstream areas.
5. An overarching enforcement policy has been drafted (Appendix 1) which has regard to the requirements of the Legislative and Regulatory Reform Act 2006, section 21 and the Regulators' Code, published by the Better Regulation Delivery Office (now known as Office for Product Safety and Standards).
6. The Act outlines two principles that any person exercising a regulatory function must have regard to:
 - a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent.
 - b) regulatory activities should be targeted only at cases in which action is needed

The proposed policy reflects these principles and details how the authority will comply with them.

7. The policy is an overarching policy which means that more detailed policies or guidance documents will be required to support it, for example covering areas such as food safety, antisocial behaviour, planning enforcement etc. These supporting policies may be updated to reflect operational changes or required changes due to legislative or central guidance updates.
 8. The work areas affected by this overarching enforcement policy have been contacted to ensure any work that they are undertaking does not cause conflict with the proposed new policy.
 9. The areas covered by the proposed overarching policy include: Environmental Health, Licensing (all areas), Planning Enforcement, Housing, Environmental Crime, Unauthorised Encampments, Building Control, Fraud, and Blue Badge enforcement. However, this list is not exhaustive and the proposed policy may also apply to other miscellaneous enforcement functions of the authority.
 10. It is recommended that any supporting policies or guidance notes which support this policy are harmonised and implemented as soon as reasonably practicable post vesting day to ensure the principles outlined above are met (unless a specific exemption applies).
- 

11. Financial Implications

12. No direct financial implications have been identified regarding the implementation of this policy other than officer resources in creating the supporting documents. There would be financial implications if the authority took legal action which was challenged in court and the case collapsed as a result of the absence of a policy.

13. Legal Implications

14. The authority is required to have a policy to ensure compliance with the principles outlined in section 3.

15. Other Key Risks

16. The absence of a policy could cause inconsistent approaches to enforcement being undertaken which could influence the reputation of the new authority. It could also undermine other enforcement actions taken by the authority and render its regulatory functions to challenge.

17. Dependencies

18. Each service area which this policy affects will be required to produce supporting service specific policies/documentation so far as is reasonably practicable by April 2021.

19. Consultation

20. Service areas affected by the implementation of the policy have been informed and asked to provide comment. Comments provided have been incorporated as appropriate.
21. Although not a legal requirement, it is envisaged that the policy will be made available on the new Council's website. It is recognised that persons or businesses will only be affected by this policy if they undertake an activity which requires a regulatory input or oversight.

22. Communications Plan

23. There is no specific communications plan for making persons or businesses aware of the policy, however it will be available on the website, post vesting day.

24. Equalities Implications

25. Not required for the proposed overarching policy, the subject of this report. However, it is envisaged that the supporting policies may require Equalities Impact Assessments.
26. Legal advice indicates that the policy could pose difficulties for people with disabilities or whose first language is not English. The intention is therefore to support individuals and signpost them to organisations that may be able to provide further appropriate advice or support. Such details are to be provided by the individual services concerned as part of the procedures which support this policy.



27. Data Privacy Implications

28. It is not believed that there are any data privacy implications with respect to this policy. The policy outlines what persons and businesses can expect from the authority.

29. Next Steps

30. If the proposed policy is adopted, service areas will be informed so that they may begin work to produce harmonised service specific supporting policies. The functions to which this policy applies are outlined within the policy attached.

Background Papers	None
--------------------------	-------------

