



Cabinet

Tuesday, 14 February 2023

Corporate Enforcement Policy Review

Report of the Monitoring Officer

Cabinet Portfolio Holder for Environment and Safety, Councillor R Inglis

1. Purpose of report

- 1.1. Rushcliffe's current Corporate Enforcement Policy was adopted in March 2010, and last reviewed in October 2019. It is therefore timely that the Policy is reviewed again to ensure it remains fit for purpose and meets the needs of our communities.
- 1.2. It was agreed that this would form part of this year's work programme for Communities Scrutiny Group and as such, a report was taken to that group on 19 January 2023.
- 1.3. Communities Scrutiny Group considered the amendments proposed to the Policy by officers and subject to the addition of one additional sentence, as detailed at paragraph 4.6, endorsed the refreshed Policy, and agreed that it should be presented to Cabinet for endorsement.

2. Recommendation

It is RECOMMENDED that Cabinet endorses the proposed amendments to the Corporate Enforcement Policy.

3. Reasons for Recommendation

- 3.1. It is important that the Council has an up-to-date Corporate Enforcement Policy, which accurately reflects the approach taken to enforcement corporately and links with the area specific enforcement protocols/policies produced by the various departments, who have enforcement responsibilities and powers within the Council.
- 3.2. It is important for Councillors to have the opportunity to understand more about enforcement powers the Council can use as well as the framework within which the Council's Enforcement Officers operate.

4. Supporting Information

- 4.1. The Corporate Enforcement Policy is an umbrella policy which applies to legislation enforced or administered by Council officers in the following areas:
- Enviro-crime – fly tipping, graffiti, litter, abandoned vehicles
 - Environmental health – food safety, health and safety, private sector housing including empty homes, environmental protection, statutory nuisance, and dogs
 - Licensing
 - Building control
 - Planning enforcement.
- 4.2. The term ‘enforcement’ includes any action taken by officers aimed at ensuring that individuals or businesses comply with the legislation the Council enforces. This includes setting standards (whether by imposing conditions on a consent or licence or permission, by order or otherwise), advisory visits, carrying out inspections and investigations, serving notices as well as taking other more formal enforcement action to deal with contraventions and criminal behaviour such as prosecutions.
- 4.3. The Corporate Enforcement Policy is supplemented where required by individual service area policies which, whilst following the corporate approach, will provide information in greater detail as to how the specific legislation applicable to that service is applied.
- 4.4. Officers have reviewed the Corporate Enforcement Policy and proposed some amendments, which are set out in the revised Policy attached at Appendix One. Some of these amendments are required as a result of changing legislation and alterations to reporting procedures/monitoring within the Council. Additional information has also been included to provide more context around the various options available to the Council in terms of enforcement action and when these options might be appropriate.
- 4.5. Officers also recommend that additional text is added to make it clear that the first stages in the enforcement process undertaken by the Council will be prevention; followed by control by licence, approval, or consent where appropriate. In addition, officers recommend that the Policy makes it clear that individual enforcement teams have their own powers and procedures, but enforcement at Rushcliffe is very much a collaborative process and teams will work together to use the correct enforcement tools to secure the desired outcomes.
- 4.6. Communities Scrutiny Group asked if a sentence could be added to paragraph 3.7 of the Policy to reflect the fact that the characteristics of an area could be a factor taken into account in determining the appropriate enforcement action to be taken. This was agreed and has been added to the Policy.

5. Alternative options considered and reasons for rejection

The Council could choose not to review this Policy, but this option is not considered appropriate as the risk would be that it fails to accurately reflect the approach taken to enforcement corporately, does not reference relevant legislation and is no longer fit for purpose.

6. Risks and Uncertainties

It is important that the Council has an up-to-date Corporate Enforcement Policy which accurately reflects the approach taken to enforcement corporately and links with the area specific enforcement protocols/policies produced by the various service areas who have enforcement responsibilities and powers within the Council. It is important that the Council reviews the Policy regularly to ensure it is still fit for purpose and aligns with the corporate priorities of the authority.

7. Implications

7.1. Financial Implications

There are no financial implications resulting from the recommendations in this report.

7.2. Legal Implications

7.2.1 Section 21 of the Regulatory Reform Act 2006 requires the Council to have regard to the way it carries out regulatory functions and to do so in a way which is transparent, accountable, proportionate, consistent, and targeted at cases where action is needed.

7.2.2 Section 22 of the Regulatory Reform Act 2006 requires the Council to have regard to the Regulators' Code in determining any general policies or principles by reference to which we exercise regulatory functions.

7.3. Equalities Implications

An Equality Impact Assessment has been completed as part of the review of the Policy – see Appendix Two.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

Enforcement action taken under this Policy can impact positively on public safety, this is therefore one of the key issues which is borne in mind when reviewing this Policy.

8. Link to Corporate Priorities

Quality of Life	Fair and effective enforcement is essential for the protection of the individual and the community as a whole.
Efficient Services	This Policy sets out the powers available to the Borough Council and the criteria which are applied when decisions are made around the utilisation of these powers; keeping residents informed and involved in our decision making.
Sustainable Growth	Fair and effective enforcement allows sustainable growth to occur; whilst at the same time ensuring that growth can be regulated appropriately where necessary.
The Environment	Fair and effective enforcement can be used as a tool to protect and enhance both the natural and built environment.

9. Recommendation

It is RECOMMENDED that Cabinet endorses the proposed amendments to the Corporate Enforcement Policy.

For more information contact:	Gemma Dennis Monitoring Officer gdennis@rushcliffe.gov.uk
Background papers available for Inspection:	N/A
List of appendices:	Appendix One – Corporate Enforcement Policy Appendix Two – Equality Impact Assessment