

DECISION ITEM

| REPORT OF | MEETING | DATE | ITEM NO |
|--|---------------------|-------------------|---------|
| OFFICE OF THE CHIEF EXECUTIVE | EXECUTIVE COMMITTEE | 19 SEPTEMBER 2023 | 14 |
| DRAFT ENVIRONMENTAL HEALTH AND HOUSING ENFORCEMENT POLICY | | | |

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remits of Lead Members for Social Wellbeing (Councillor Chris Dixon), Environment (Councillor Tommy Threlfall) and Customer and Operational services (Councillor Michelle Morris).

PURPOSE OF THE REPORT

Due to changes in the structure and management structure within Fylde Council, the Environmental Health and Housing services are now under a single Head of Service. Both of these services have enforcement and regulatory functions, and they are of a common theme, public health. It is of the opinion of the Head of Environmental Health & Housing Services that the service shall benefit from one single 'Enforcement Policy'.

The draft policy was considered by the Internal Affairs Scrutiny Committee at its meeting on 5 September. The committee recommend approval of the policy by the Executive Committee.

RECOVERABILITY

This decision is recoverable under section 7 of part 3 of the constitution.

RECOMMENDATION

1. To approve the Draft Environmental and Housing Enforcement Policy.

REPORT

1. The **Legislative and Regulatory Reform Act 2006** imposes a duty on anyone exercising a specified regulatory function to have regard to the principles of good regulation. The principles provide that regulation should be carried out in a way that is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
2. Under Section 23 of the Act, the Minister issued **The Regulators' Code** which came into effect in 2014, [Regulators' Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk). It gives guidance on exercising regulatory functions. It provides a set of principles for Regulators to consider:
 - Regulators should carry out their activities in a way that supports those they regulate to comply and grow

- Regulators should provide simple and straight forward ways to engage with those they regulate and hear their views
 - Regulators should base their regulatory activities on risk
 - Regulators should share information about compliance and risk
 - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
 - Regulators should ensure that their approach to their regulatory activities is transparent – this includes an expectation that Regulators have an enforcement policy explaining how they respond to non-compliance.
3. Fylde Council is a regulatory body, and as such is under a duty to have regard to the Code in exercising regulatory powers, setting standards or giving general advice.
 4. The Council is required by the Regulator’s Code to publish their Enforcement Policy explaining how they respond to non-compliance. It is recognised as an important document for regulators in meeting their responsibility under the statutory principles of good regulation, set out in Section 21 of The Legislative and Regulatory Reform Act 2006, to be accountable and transparent about their activities.
 5. If adopted, the Enforcement Policy will apply to all our Housing and Enforcement regulatory functions. It will set out standards and guidance for all officers involved in regulatory enforcement work at Fylde Council within the Housing and Environmental Services, and all stakeholders regulated by Fylde Council on the approach that will be adopted in the event of non-compliance. It intends to be reasonably comprehensive but cannot cover every situation which this department may have to deal with. Officers shall have regard to the Policy alongside all legal framework and guidance and each service area will have specific legislation, guidance, Codes of Practice which will guide appropriate enforcement decisions.
 6. Fylde Council acknowledges the desirability of encouraging economic growth and takes into consideration the costs, effectiveness and perceptions of fairness when considering any enforcement action and as such, the Environmental and Housing Services departments aim to carry out their regulatory and enforcement duties without imposing unnecessary burdens on businesses or individuals. Enforcement action will usually be graduated. Any individuals/businesses that deliberately or persistently flout the law will usually be subject to enforcement action.
 7. Failure to comply with enforcement action could result in an escalation of enforcement action. For instance failing to comply with a legal notice could result in legal proceedings being instigated. Escalated enforcement action will be taken where the continuing non-conformance is detrimental and there is a high risk of continuing non-conformance. Prosecutions will only be instituted where the Head of Governance, as the council’s solicitor, is satisfied that the relevant evidential and public interest tests have been met,.
 8. The Environmental and Housing Services departments aim to:
 - protect the public and the environment
 - promote the health, safety and welfare of all our residents and visitors
 - enhance the quality of life for all residents and visitors and
 - allow compliant businesses to flourish
 9. Environmental and Housing Services deals with a myriad of legislation and enforcement options in the following regulatory areas:
 - Licensing
 - Housing
 - Food Control
 - Health and Safety Enforcement
 - Environmental Protection (air quality, contaminated land, environmental nuisance, Public Health Act funerals, flytipping, Local Air Pollution Prevention and Control (LAPPC))
 - Antisocial Behaviour
 - Animal welfare
 - Waste and litter enforcement
 - Public Health

- Housing standards in private rented homes
- Housing standards in houses in multiple occupation (HMO's)
- Public Space Protection Orders (active orders within Fylde include ban on open fires in certain areas e.g. barbeques, dog control, restrictions on alcohol).

10. The policy will be published online at the Fylde Council Website. Any complaints about enforcement action or the actions of our officers can be made through the Councils corporate complaint procedure <https://new.fylde.gov.uk/complaints/> although anyone wishing to complain or discuss the enforcement action being considered will be encouraged to discuss this with the Investigating Officer, their Line Manager or the Environmental Health Services Manager in the first instance.

FURTHER REPORTING AND MONITORING AGAINST THE ENFORCEMENT POLICY

11. It is not appropriate to have enforcement targets or quotas, as enforcement in the Environmental Health and Housing service should always be based on public health or other relevant risk and prosecutions should be based on public interest. Introducing targets or quotas could put officers under pressure to take unnecessary enforcement action, which may be unfair on a business. However, members should be aware and have the right to be aware of the enforcement action taken by the service. It is recommended that a simple report with statistics and breakdowns of type of enforcement action be brought to Internal Affairs Scrutiny committee each year, for members to peruse.

| CORPORATE PRIORITIES | |
|--|---|
| Economy – To create a vibrant and healthy economy | |
| Environment – To deliver services customers expect | √ |
| Efficiency – By spending money in the most efficient way | |
| Tourism – To create a great place to live and visit | |

| IMPLICATIONS | |
|---|--|
| Finance | None arising from this report |
| Legal | The legal implications are laid out in the body of the report. |
| Community Safety | None arising from this report |
| Human Rights and Equalities | None arising from this report |
| Sustainability and Environmental Impact | None arising from this report |
| Health & Safety and Risk Management | None arising from this report |

| SUMMARY OF PREVIOUS DECISIONS |
|---|
| Internal Affairs Scrutiny Committee – 5 September 2023 - To recommend approval of the draft Environmental Health and Housing Enforcement Policy to the Executive Committee |

| BACKGROUND PAPERS REVELANT TO THIS ITEM | | |
|---|------|---------------------------------------|
| Name of document | Date | Where available for inspection |
| Environmental Health & Housing Enforcement policy | | To be published on website if adopted |

| LEAD AUTHOR | CONTACT DETAILS | DATE |
|----------------|--|----------|
| Ian Williamson | ian.williamson@fylde.gov.uk | 6/9/2023 |

Attached documents:

Appendix 1 – Draft Environmental Health and Housing Enforcement Policy