

Leader Decision

23 April 2020

Trading Standards Service Enforcement Policy 2020 - 2023

Recommendations

That the Leader of the Council agrees:

1. The enforcement policy for the Trading Standards Service.
2. That the authority to make minor amendments to the policy is delegated to the Assistant Director Environmental Services or their nominee.

1.0 Key Issues

- 1.1 When making decisions about enforcement action to be taken where individuals or businesses have breached a legal requirement, it is important that those decisions are appropriate, proportional and rational and based on sound evidence. The enforcement policy (Appendix 1) provides a rational basis to guide the decision-making process.
- 1.2 The legislative background is set out in the Legislative and Regulatory Reform Act 2006. This Act sets out the principles to which a person must have regard when exercising certain regulatory functions. The principles listed provide that regulatory activities should be carried out in a way that is transparent, accountable, proportionate, consistent, and should be targeted only at cases in which action is needed.
- 1.3 Section 22 of the Act enables a Minister of the Crown to issue and revise a Code of Practice relating to the exercise of regulatory functions. The resultant Regulators Code came into effect on 6 April 2014 and sets out an expectation that local authorities will ensure that their approach to their regulatory activities is transparent. This means the publication of an enforcement policy detailing how they intend to deliver regulation and what those affected can expect.
- 1.4 The Regulator's Code also provides a set of principles for Regulator's to consider:
 - (a) Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
 - (b) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
 - (c) Regulators should base their regulatory activities on risk.
 - (d) Regulators should share information about compliance and risk.

- (e) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
- (f) Regulators should ensure that their approach to their regulatory activities is Transparent.

1.5 The council's vision is laid down in the Warwickshire County Council One Organisational Plan 2020. The overall aim is 'to make Warwickshire the best it can be' and the priorities to achieve this include:

- Our communities are independent, resilient and safe
- Vulnerable members of our communities are supported to be independent and safe
- Warwickshire is an attractive place to do business with a strong local economy and infrastructure
- Our communities and businesses are thriving and prosperous

This Enforcement policy states, 'the primary function of the Trading Standards Service is to create a fair and safe trading environment, supporting growth of legitimate businesses and protecting consumers', thereby supporting the corporate priorities listed above.

1.6 We are required to keep our Enforcement Policy under review. This amended policy is a result of the latest review. Changes include: -

- Updated Code for Crown Prosecutors,
- Clarified paragraph on priorities and available resources,
- Clearly defined Principles of enforcement as set out under the Legislative and Regulatory Reform Act 2006
- Increased information for witnesses,
- Addition of Licencing Review process,
- Recognition of shared enforcement functions,
- Clarification of appeal system,
- Clarification of review timeline.

1.7 An Equality Impact Assessment (EIA) carried out in 2017 concluded that there was little or no impact from this policy on any of the designated groups stipulated within the Equality Act 2010. A further review has been conducted in November 2019 using the new Equality Impact Assessment Initial Screening form and that has similarly concluded that there was little or no impact on any of the identified groups and as such a full EIA is unnecessary. (See Appendix 2) The need for an EIA will be reviewed alongside the review of the policy, every 3 years or where major changes in legislation or policy requires it.

1.8 There are occasions when a change of emphasis in relation to the enforcement approach is indicated, either through codes of practice and guidelines from regulatory bodies. For example, there may be increased use of financial penalties as a way of discharging an enforcement function. In such circumstances, such minor amendments which do not directly impact on the overall approach set out in the Enforcement Policy, its recommended that

authority is delegated to the Assistant Director Environmental Services or their nominee.

2.0 Options and Proposal

- 2.1 That the Leader agrees the Warwickshire Trading Standards Service Enforcement Policy or request that it be amended.
- 2.2 Following agreement by the Leader the Enforcement Policy will be published on the Council's website.

3.0 Financial Implications

- 3.1 None.

4.0 Environmental Implications

- 4.1 None.

5.0 Timescales associated with the decision and next steps

- 5.1 The Enforcement Policy will be published following agreement by the Leader.

Background papers

None

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The report was circulated to the following members prior to publication:

Local Member(s):

Other members: Councillor Crump