

**Committee:** Cabinet

**Agenda Item**

**Date:** 18 October 2017

**11**

**Title:** Review of Enforcement

**Portfolio Holder:** Cllr Simon Howell, Cabinet Member of Finance & Administration

Key decision: Yes

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## Summary

1. A member Enforcement Task Force was established to review the Council's approach to enforcement. It presented its findings and recommendations to Scrutiny Committee on 6 September 2016 and the Scrutiny Committee passed it to Cabinet for consideration.
2. At its meeting on 26 October, the Cabinet "thanked the Scrutiny Committee for this work and welcomed the report. This would form the basis of the strategy that would be considered further by officers and presented to Cabinet at a future meeting."
3. The Cabinet resolved "that a report on the council's enforcement service be considered at a future Cabinet meeting, with the report to reflect on some of the recommendations in the Scrutiny Review of Enforcement".
4. The Scrutiny Committee considered the draft enforcement policies on 18 September and they received a positive response. In order to give more time for Scrutiny members to review the policies, they were invited to provide further comments to the Interim Head of Legal Services before the Cabinet meeting. Any comments received will be reported to the Cabinet. NB: The policies need some further work to ensure consistency of presentation and layout.
5. The report to Scrutiny Committee, and this report, summarises progress generally on addressing the Task Force's recommendations.

## Recommendation

6. That members approve the draft enforcement policies annexed to this report, subject to authorising officers to carry out further work to ensure consistent presentation and layout.

## Financial Implications

7. None directly.

## Background Papers

8. None.

## Impact

9.

Communication/Consultation	The enforcement policies are intended, amongst other things, to promote effective communication and consultation with regulated bodies or persons.
Community Safety	Effective enforcement policies aim to promote community safety in an effective and proportionate manner.
Equalities	Equalities issues are addressed in the policies.
Health and Safety	None direct, other than that the corporate enforcement policy is relevant to the Council's approach to enforcing health and safety laws.
Human Rights/Legal Implications	The policies are designed to ensure that the Council carries out its enforcement role lawfully and proportionately having regard, amongst other things, to human rights.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

9. The Task Force report called for a new corporate enforcement policy and for service enforcement policies for the following areas of work:

- Fly Tipping
- Littering
- Unauthorised Waste Carriers/Transfer of Waste
- Lack of trade waste agreements
- Dog Fouling
- Smoking in Public Buildings/Vehicles
- Failure to display no smoking signs in smoke free premises or vehicle
- Untaxed and abandoned vehicles
- Graffiti
- Licensed Vehicles

- Licensed Premises
- Gambling
- Planning
- Housing Tenancy Fraud
- Fly Posting
- Scrap Metal.

10. A draft corporate enforcement policy is attached. This is compliant with the Regulators' Code promoted by the Department for Business, Innovation and Skills.

11. Draft service enforcement policies are also attached, covering the following areas:

- Planning Enforcement
- Fixed penalty enforcement, covering:
  - Fly Tipping
  - Littering
  - Unauthorised Waste Carriers/Transfer of Waste
  - Lack of trade waste agreements
  - Dog Fouling (PSPOs)
  - Smoking in Public Buildings/Vehicles
  - Failure to display no smoking signs in smoke free premises or vehicle
  - Untaxed and abandoned vehicles
  - Graffiti
  - Fly Posting
- Premises licensing
- Council tax, business rates and local council tax support anti-fraud policy. (Not identified by Scrutiny as an area for consideration.)
- More work will be carried out on the format of the individual policies with a view to a more consistent style and presentation.

12. This leaves the following areas to be developed:

- Licensed Vehicles  
In relation to licensed vehicles, a peer review is being carried out, which is likely to result in proposals to make changes to licensing requirements. The intention is to draw up a revised enforcement policy in the light of the peer review.
- Housing Tenancy Fraud  
Work is still needed on this.
- Scrap Metal.  
A review of the Council's approach to scrap metal licensing is currently under way and an enforcement policy will be drafted as part of this.
- Other areas of work

We are also looking to develop service standards/enforcement policy for private sector housing enforcement. This requires further work, not least to consider how to use extra enforcement powers recently made available in this area. Work is also needed in respect of Environmental Health enforcement activities; food safety, health and safety etc.

Policies for these areas will be drafted in a manner that complies with the approach taken in the corporate enforcement policy.

13. A summary of the recommendations endorsed by the Scrutiny Committee is attached with a note of progress.

### Risk Analysis

14.

Risk	Likelihood	Impact	Mitigating actions
That the Council's approach to enforcement is unfair or disproportionate.	2	3	The adoption of clear enforcement policies reflecting the principles contained in the Regulators' Code promoted by the Department for Business, Innovation and Skills.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## Enforcement Task Group Review: Recommendations – Summary of Current Status

Recommendation	Lead Officer(s) Current Status and Action Needed
<p><b>A. Following the re-engineering of the Council’s IDOX Software System, from 1 April 2017; the Corporate Enforcement Team introduce monthly Parish/Town Council and District Council updates on Planning Enforcement Cases (including status and numbers); and introduce a Quarterly report to Planning Committee.</b></p>	
<p>A.1 It is considered that a better management of the Council’s IDOX system will improve the ability to interrogate the system, filter information; and report Planning Enforcement caseloads and their status to Town/Parish Councils, District Councillors and Regulatory Committees.</p>	<p>The team have received training on how to utilise the IDOX system to be more efficient which has allowed for the caseloads to be reported to the Town/Parish Councillors and the Ward Members</p>
<p>A2. In order to achieve this some consideration of re-engineering of the IDOX system will be required, and it is recommended that this is put in place before 1 April 2017.</p>	<p>The training was in January 2017 and the reports have been forwarded onto the Parish Council’s to include the figures from March 2017. There is still more re-engineering to allow for smarter working within the team.</p>
<p><b>B. Introduction of Customer Charter with standards for updating complainants on the progress of all enforcement activities in all areas of activity before 1 April 2017.</b></p>	
<p>B.1 Through activities above regarding the re-engineering of the IDOX system there will be a better opportunity to update complainants on the status and timeframes of Planning Enforcement Cases.</p>	<p>The resolutions of cases can now be measured through the new reporting system which shows that there is a good resolution of cases within a timely fashion.</p>
<p>B.2 The introduction of specific customer standards for all the enforcement activities within the Enforcement Team.</p>	<p>Contained within enforcement policies/service standards for areas of work. Progress made. Work still needed on enforcement for vehicle licensing, scrap metal and housing tenancy fraud.</p>

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<p><b>C. Review the Council's Enforcement Strategy; and the Review/Introduction of Enforcement Policies for all principal enforcement areas before 1 April 2017.</b></p>	<p>Policy for Street Scene Offences &amp; Premises licensing drafted. The Environmental Health Policy originally drafted in 2008 is under review and will be presented to Cabinet later in the year. The same will apply to taxi licensing.</p>
<p>C.1 The Council's Enforcement Strategy dated June 2011; is required to be reviewed, and updated to provide a better emphasis upon customer service and education/prevention on all areas.</p>	<p>Draft to be presented to Scrutiny Committee and Cabinet in September/October 2017</p>
<p>C.2 The Council's Licensing Policy (Related to taxis) needs to be reviewed in consultation with service users and providers.</p>	<p>Will initially form part of a peer review undertaken by head of licensing at East Herts Council. Scheduled to commence summer 2017. Recommendations will be considered and adopted as applicable.</p>
<p>C.3 Enforcement Policies need to be introduced for all principal enforcement activity areas namely Planning and Licensed Premises.</p>	<p>Enforcement policies for most enforcement areas have been drafted and will be considered by Scrutiny and Cabinet in September/October, including Planning and Licensed Premises.</p>
<p><b>D. Introduction of Memorandum of Understanding between Essex Highways and Uttlesford District Council on Highway Enforcement Matters.</b></p>	
<p>D.1 The Council can demonstrate a good working relationship with some agencies. UDC's relationships with Place Services (ECC), The North Essex Parking Partnership and the Essex County Travellers Unit have been</p>	<p>There is successful working relationship between UDC and ECTU.</p>

Recommendation	Lead Officer(s) Current Status and Action Needed
successful based upon a working Service Level Agreement and/or Partnership Agreements.	
D.2 Other cross agency working with other parties such as the police and County Planning have been successful based upon mutual exchange of information. These relationships do not need to be formalised.	There have been successful results due to good working relationships through cross agency working.
D.3 The Council has a particularly poor relationship with Essex Highways on enforcement activities. It is recommended that a formalised relationship with Essex Highways be established on enforcement activities.	This still needs improvement. Involvement from CMT is likely to be the best way forward.
<b>E. Relaunch Forums for Taxi Drivers/Operators and other Non-Planning Enforcement Areas where appropriate before 1 April 2017.</b>	
E.1 The priority on non-enforcement issues such as licensing and trade waste must be on education and prevention rather than defaulting to enforcement.	Education and prevention will always be preferable to enforcement. Advice will always be offered both in the form of issued guidance or upon request. However responsibility for complying with legislative requirements must rest with the trade. The primary purpose of any licensing regime is to protect public safety and while clearly there is advantage in working together in achieving these aims the educative approach must never compromise this.
E.2 Whilst still retaining enforcement focus where required, it is essential that more emphasis be given to prevention through specific forum and education events aimed at the prevention of enforcement issues.	Mechanisms for achieving such aims will form part of the current review.
E.3 It is recommended that the forum for Taxi Drivers/Operators and other non-planning enforcement areas be relaunched.	Taxi forum has been addressed by the incorporated into taxi chat which will be issued initially three times a year. This will be reviewed and extended to quarterly if sufficient demand. Driver / operators will be invited to submit questions or points for discussion which will depending on the particular issue be addressed by UDC officers, legal representation or peer to peer discussion. Senior members of the Trade will still be able to contact officers

Recommendation	Lead Officer(s) Current Status and Action Needed
	to discuss significant matters of interest directly.