

**London Boroughs of Brent & Harrow
Trading Standards Joint Advisory Board
22 November 2018
Report from the Senior Service Manager**

FOR INFORMATION

REPORT REGRADING A PROPOSED ENFORCEMENT POLICY AND SERVICE STANDARDS AS REQUIRED BY THE REGULATORS' CODE

Wards Affected:	N/A
Key or Non-Key Decision:	N/A
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	2
Background Papers:	Regulators' Code
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Simon Legg Senior Service Manager Simon.legg@brent.gov.uk 0208 937 5522

1.0 Purpose of the Report

- 1.1 Under Section 22 of the Legislative and Regulatory Reform Act 2006, local authorities must have regard to the Regulators' Code when exercising regulatory functions.
- 1.2 This report seeks members comments of an updated Enforcement Policy (the policy) and a set of Service Standards (the standards) as required by the Regulators' Code.
- 1.3 The policy and the standards will apply to the activities of the Trading Standards consortium. It updates the sanctions available to us when taking enforcement action and meets our compliance requirements of the Regulators Code.

2.0 Recommendations

2.1 That Joint Advisory Board Members:

- 2.1.1 Consider the contents of the Enforcement Policy (see Appendix 1) and make appropriate comments.
- 2.1.2 Consider the contents of the Service Standards (see Appendix 2) subject to and make appropriate comments.
- 2.1.3 Note the intension to seek delegation of authority to the London Borough of Brent's Strategic Director of Regeneration & Environment in consultation with the relevant

Cabinet Member, to update the Enforcement Policy and the Service Standards as required by the Regulators Code.

3.0 Detail

- 3.1 Under Section 22 of the Legislative and Regulatory Reform Act 2006, local authorities must have regard to the Regulators Code ¹ when exercising regulatory functions. The Regulators Code (the Code) was published by the Department for Business, Innovation and Skills Better Regulation Delivery Office in 2014 when it became statutory and is now the responsibility of the Office for Product Safety and Standards.
- 3.2 The Code reflects Government's commitment to reducing regulatory burdens for business by providing a clear set of principles on how local authorities should interact with those they are regulating. At the same time, it recognises businesses need clear regulatory information, guidance and advice that they can rely on in order to invest and grow.
- 3.3 The regulatory functions that fall within the scope of the Code are specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (as amended)², in accordance with Section 24 of the Legislative and Regulatory Reform Act 2006. Trading Standards duties are included within this.
- 3.4 The key principles of the Code are that regulators should:
 - Carry out their activities in a way that supports those they regulate to comply and grow
 - Provide simple and straightforward ways to engage with those they regulate
 - Base their regulatory activities on risk
 - Share information about compliance and risk
 - Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities
 - Ensure their approach to their regulatory activities is transparent.
- 3.5 The policy and the standards are attached as Appendix 1 and Appendix 2 to this report. Please note that Brent Council's Design Team, will apply the corporate style to both documents once the content of each is agreed and finalised.
- 3.6 The policy and the standards provide guidance to officers which should be followed when conducting regulatory activities so their actions are transparent, accountable, proportionate, consistent and targeted only when needed. The Council must have regard to the Code when developing policies and principles that guide its regulatory activities.
- 3.7 It should help businesses and regulated persons, to understand our methods for achieving compliance and the criteria followed when considering the most appropriate response to a breach of legislation.

¹ <https://www.gov.uk/government/publications/regulators-code>

² <https://www.legislation.gov.uk/uksi/2007/3544/contents/made>

- 3.8 Whilst there is no legal requirement for this, the policy and standards follow a format provided by the Better Regulation Delivery Office in a 'Local Authority Tool Kit', whenever possible, retaining the same headings and format to ensure the documents cover all the Code's requirements and to provide some uniformity and consistency with those used by other local authorities.
- 3.9 The service standards have been drafted to mirror as closely as possible, those found in Brent Council's Customer Promise which commands good quality and easily accessible council services and information.
- 3.10 Harrow Members may wish to note that the London Borough of Harrow has an Enforcement Policy which was agreed by Harrow's Cabinet on 14 September 2017. As the London Borough of Brent acts as the host authority for the shared Trading Standards consortium, it will be the policy and standards subject to this report, which officers will follow.
- 3.11 This report recommends that authority to update the policy and the standards is delegated to the Strategic Director of Regeneration & Environment to allow for changes to be made following the required consultation with those we regulate. In addition, this will enable timely updates following any changes to our enforcement approach, procedures, priority setting process, statutory guidance or any other similar requirements.
- 3.12 It is important that the policy and the standards are easily accessible to those who we regulate once they are approved. The Code requires the policy and the standards to be clearly visible on our website and they should be well signposted.
- 3.13 In accordance with the Code, details of any fees and charges that we apply, must also be published on our website and these are to be kept up to date.
- 3.14 In addition, the Council is required to publish details of performance against the policy including feedback from satisfaction surveys and data relating to complaints about them and appeals against their decisions.

4.0 Financial Implications

- 4.1 The staffing resource to implement the processes and procedures, will be met from within the Trading Standards base budget.
- 4.2 There will also be a nominal cost associated with the final publishing and making these documents available on the website. This will be met from existing budgets.

5.0 Legal Implications

- 5.1 Section 22 of the Legislative and Regulatory Reform Act 2006 states:

(1) A Minister of the Crown may issue and from time to time revise, a code of practice in relation to the exercise of regulatory functions.

(2) Any person exercising a regulatory function to which this section applies must, except in a case where subsection (3) applies, have regard to the code in determining any general policy or principles by reference to which the person exercises the function.

(3) Any person exercising a regulatory function to which this section applies which is a function of setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code in the exercise of the function.

5.2 The Regulators' Code states:

Paragraph 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them

and.

Paragraph 6.2 d) their enforcement policy, explaining how they respond to non-compliance;

5.3 The purpose of the Enforcement Policy and Service Standards subject to this report, is to satisfy our statutory obligations as set out above.

5.4 Failure to adopt an Enforcement Policy and Service Standards may leave us open to legal challenge and create reputational risk or damage should any regulatory activity fail as a result of not having these documents in place and ensuring staff follow the contents of them.

6.0 Equality Implications

6.1 The proposals in this report are a statutory requirement. They have been screened to assess their relevance to equality and were found to have no equality implications. The policy and the standards aim to provide a transparent and consistent approach to the way we conduct our regulatory activities, the consequences of which support fairness and equality.

7.0 Human Resources Implications

7.1 There will be some staffing implications taking staff away from their frontline duties to provide training on the new policy and the standards if approved, implementing them and in the longer term, providing managerial oversight but it is expected that these will be minimal and can be managed within our base budget.

Background Papers.

A copy of the Regulators Code can be accessed from the following web link;
<https://www.gov.uk/government/publications/regulators-code>

Further information including frequently asked questions and answers, are available from the Guidance for Regulators Information Point (GRIP) website found at the following web

link;

https://www.regulatorsdevelopment.info/grip/local_authorities

Contact Officer

Any person wishing to obtain more information should contact Simon Legg, Senior Regulatory Service Manager, Brent Civic Centre, Engineers Way, Wembley Middlesex HA9 0FJ. Telephone: (020) 8937 5522, simon.legg@brent.gov.uk

SIMON LEGG
SENIOR SERVICE MANAGER

APPENDIX 1

- 1) The Enforcement Policy

- 2) The Service Standards