

**CABINET
25 JANUARY 2022**

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: CORPORATE STATEMENT OF ENFORCEMENT POLICY REVIEW

REPORT OF: LEGAL REGULATORY TEAM MANAGER & DEPUTY MONITORING OFFICER

EXECUTIVE MEMBER: THE LEADER OF THE COUNCIL: COUNCILLOR ELIZABETH DENNIS-HARBURG

COUNCIL PRIORITY: BUILD THRIVING AND RESILIENT COMMUNITIES / RESPOND TO CHALLENGES TO THE ENVIRONMENT / ENABLE AN ENTERPRISING AND CO-OPERATIVE ECONOMY

COUNCIL NEW PRIORITIES: PEOPLE FIRST / SUSTAINABILITY

1. EXECUTIVE SUMMARY

- 1.1 This Report reviews the Council's Corporate Statement of Enforcement Policy (the 'Policy') so that enforcement decisions and actions are consistent throughout the Council.

2. RECOMMENDATIONS

- 2.1. That Cabinet approve the amended Policy contained at Appendix A.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To bring the Council's Corporate Enforcement Policy up to date.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. None as this is just an update to the current Corporate Enforcement Policy and not subject to consultation.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key Executive decision that was first notified to the public in the Forward Plan on the 23 December 2021.

7. BACKGROUND

- 7.1. The Corporate Enforcement Policy ('the Policy') was last updated in December 2018 and it therefore needs to be updated to reflect new legislative and enforcement developments, as well as the Council's recent Senior Management Restructure.
- 7.2. All relevant enforcement departments were requested to update their policies and have fed into the Policy contained at Appendix A.

8. RELEVANT CONSIDERATIONS

- 8.1. The purpose of the Policy is to set out, in a clear and easy to understand way, what the Council's options are with respect to enforcement action.
- 8.2. As per the current version, this policy was considered and updated (where necessary) by staff from various teams/departments of the council. At the time of printing, an update was still outstanding regarding procedures regarding matters arising from Health and Safety incidents.
- 8.3. There is a new appendix dealing with Fraud Prevention which has been amalgamated to the current policy which has been produced by the National Anti-Fraud Network (NAFN) which sets out relevant guidance and procedures as well as points of contacts with the Council and at NAFN.
- 8.4. Other than the newly included appendix, the most notable amendments to the Policy are:
 - *Updates to how the council deals with Unauthorised encampments, currently through our common law powers*
 - *A brief guidance on victim's right to review*
 - *Planning enforcement has been updated to explain how/what information officers can provide to external parties regarding live enforcement matters*
 - *The policy has highlighted the corporate charging schedule currently accessible to the public needs updating and that will be undertaken by various departments within the council to reflect the most up to date charging regime for staff and public*
- 8.5. The Policy sets out a number of key principles that the Council will seek to follow before and during the carrying out of enforcement activity, and lists the types of enforcement options available following a breach of legislation. When bringing and defending enforcement action; the Council needs to be able to demonstrate that it has acted reasonably in deciding upon the most appropriate course of action in response to breaches of legislation or policies.
- 8.6. Parties subject to enforcement action brought by the Council should be able to refer to the Policy in order to determine whether the enforcement action taken against them is consistent with the normal practices of the Council. Likewise, the Council can refer anyone to the Policy wherever an accusation is made that the Council is treating someone unfairly or unduly harshly through the use of enforcement powers. The Policy will therefore be made available on the Council's website so that members of the public, including individuals and businesses being enforced against, can see what the Council's approach to enforcement is.
- 8.7. Finally, it is important to note that, whilst detail is helpful in setting out the approach to be taken by the Council in a given situation, each case will ultimately be decided on its

own merits. If the Policy is too detailed and prescriptive it could fail to take into account the inevitable grey areas that will exist from time to time and potentially to a particular course of action that may not be suitable in that situation. The Policy must therefore provide enough detail so as to provide certainty as to what can be expected, whilst also not fettering the Council and/or officer's discretion.

9. LEGAL IMPLICATIONS

- 9.1 The Council's Constitution at paragraph 5.6.1 states that the Cabinet may prepare and agree to implement policies and strategies other than those reserved to Council.
- 9.2 Also, paragraph 5.6.4 of the Constitution which states that it is for the Cabinet to exercise the Authority's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
- 9.3 Section 23 of the Legislative and Regulatory Reform Act 2006 brought in the Regulators' Code 2014 which states that regulators whose functions are specified by order under section 24(2) of the Act must have regard to the Code when developing policies and operational procedures that guide their regulatory activities.

10. FINANCIAL IMPLICATIONS

- 10.1. There are no financial implications arising from this Report.

11. RISK IMPLICATIONS

- 11.1. Not having an effective and up to date Enforcement Policy leaves the Authority at risk of being unprepared or otherwise ineffective at enforcing matters affecting the district.
- 11.2. If the Council's Policy is not up to date it could face criticism at Court and be left open to challenges from defendants and defence lawyers.

12. EQUALITIES IMPLICATIONS

- 12.1. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2. The review of the Corporate Statement of Enforcement policy does not have a direct equality impact. The policy now reflects the most recent legislative and enforcement developments. This ensures that enforcement action is carried out in an objective, proportionate and consistent manner. This eliminates discrimination or victimisation when the council carries out enforcement decisions and actions.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 The officer involvement required to comply with these statutory obligations are factored into service plans and work plans.

16. APPENDICES

- 16.1 Appendix A: Corporate Enforcement Policy 'clean' version
- 16.2 Appendix B: Corporate Enforcement Policy *showing tracked changes – this is available on the website page for the report only.*

17. CONTACT OFFICERS

- 17.1 Nurainatta Katevu, Legal Regulatory Team Manager.
Email: nurainatta.katevu@north-herts.gov.uk 01462 47364

Contributors

- 17.2 Ian Couper Service Director - Resources:
Email: ian.couper@north-herts.gov.uk 01462 474243.
- 17.3 Rebecca Webb - Human Resources Operations Manager:
Email: rebecca.webb@north-herts.gov.uk 01462 474481.
- 17.4 Jeanette Thompson Service Director – Legal and Community Monitoring Officer:
Email: Jeanette.thompson@north-herts.gov.uk 01462 474370.
- 17.5 Tim Everitt, Performance & Risk Officer:
Email: tim.everitt@north-herts.gov.uk 01462 474646.
- 17.6 Reuben Ayavoo Policy and Communities Manager:
Email: Reuben.ayavoo@north-herts.gov.uk 01462 474212.

18. BACKGROUND PAPERS

- 18.1 None, other than the documents referred to above.