

WRS Board

27th June 2019

Enforcement Policy 2019

Recommendations

(i) Members agree this policy be adopted to support decision making within WRS.

Background

(ii) Members recommend the adoption of this amended policy by the individual partner authorities.

In 2011, the then Joint Committee agreed to support the adoption of a single WRS Enforcement Policy that the service would use in relation to all of its activities. This policy would be an adjunct to other enforcement policies that each partner authority had for its remaining enforcement activities. Being based on the requirements of the then Regulator's Compliance Code, the policy would not have contradicted any approach being taken by partners in other areas of enforcement such as planning. In 2016, when the partnership became a district only arrangement, the Head of Service made minor amendments to the policy and asked members of the committee to ratify the policy and recommend adoption by the six councils. It is important that members are reminded of how decision making on enforcement takes place and that they approve the processes that we follow when dealing with such serious matters. Virtually all of the legislation the service deals with has criminal sanction as its ultimate end-point and members need to be happy that the processes being followed will apply such sanctions in the right circumstances.

Report

Local authorities have been encouraged to produce Enforcement Policies for many years so that those they regulate know and understand what to expect. This was originally driven by the introduction of the Enforcement Concordat, created by LACORS, the Local Government Association's Regulatory Policy support framework for member authorities, and built upon by the Regulator's Compliance Code, issued by the Better Regulation Executive, under the Legislative and Regulatory Reform Act 2006, and maintained by what is now the Office for Product Safety and Standards, part of the Department for Business, Energy and Industrial Strategy (BEIS). The concordat and the code provided businesses with a clear framework within which regulation would take place and provided this community with an outline of the kind of responses they might face should they be identified as being non-compliant.

The original Regulators Compliance Code was replaced with the Regulator's Code. The core of the new Code changed little from the original Regulators Compliance Code, but some aspects were clarified and tidied up. Whilst this has not changed since the last review, the Head of Service feels that reviewing this policy every three years ensures that members are aware of the processes that the service follows during regulatory decision making and that this will give them reassurance that the service is taking a fair and equitable approach when dealing with offending.

Before putting a case before the Courts, local authorities also need to have regard to the Code for Crown Prosecutors, which lays down the very basic provisions for evidential sufficiency and public interest before a case can be considered a sound candidate to be taken to Court.

The attached policy meets the criteria of both the Regulators Code and the Code for Crown Prosecutors, which should allow it to easily integrate with existing policies within the partner authorities and it will allow the service to operate in a consistent way across the county in relation to all enforcement matters.

Improved consistency is something that businesses crave, so there is a level playing field for all of those in competition. Businesses have complained for a number of years about the alleged inconsistencies in enforcement between local authorities, although the LGA has always challenged this and the responses containing real evidence have been limited. By adopting a common approach to enforcing the functions discharged by WRS, partners will directly address these concerns of the business community and show that WRS remains a tool that local authorities can use to support their economies in a positive way.

Contact

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Background Papers

Enforcement Policy document attached as Appendix 1
