

WRS Board: 5th October 2023

Title: Enforcement Policy 2023

Recommendations

- (i) Members agree the continued use of this policy to support decision making within WRS.

Background

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 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 the legislation the service deals with has criminal sanction as its ultimate endpoint, 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 sectors 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 body 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 and Trade (DBaT.) 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 to five years and bringing it back

to members, ensures that they 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. This is particularly important when significant numbers of new members join the Board and is probably even more relevant given the number of members across the partners who are new to local government.

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 in its two tests of evidential sufficiency and public interest before a case can be considered a sound candidate to be taken to Court.

Whilst WRS officers prepare the case file and evidence, with Team Managers or the Head of Service make recommendations on action, the delegation in relation to the instigation of legal proceedings means that the final decision on whether a matter goes to court sits with the relevant Head of Legal Services and their delegated officers. This separation mirrors what occurs between the Police and Crown Prosecution Service and ensures the local authority complies with the separation of investigatory and prosecuting roles envisaged in the Criminal Procedure and Investigations Act 1996.

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 so that the service can continue to operate in a consistent way across the county.

Improved consistency is something that businesses crave, so there is a level playing field for all of those in competition. Businesses have complained on occasion 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.

In previous years, we have asked members to take this back to the partner authorities for adoption locally, so that it sits alongside any other enforcement policies operated by other enforcement services within the partners, however in the absence of any changes to the document, this is not necessary on this occasion.

Simon Wilkes Head of Regulatory Services
01562-738088
Simon.Wilkes@worcsregservices.gov.uk

Enforcement Policy document attached as Appendix 1

Contact

Background Papers