

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

06 June 2018

### Report of the Director of Central Services and Monitoring Officer

#### Part 1- Public

#### Executive Non Key Decisions

## **1 CORPORATE ENFORCEMENT POLICY**

### **1.1 Background**

- 1.1.1 A recent audit of risk management procedures identified a need for the Council to adopt a Corporate Enforcement Policy. The policy seeks to set out the broad principles which the Council will apply across its services when carrying out its regulatory activities (in addition to complying with all necessary statutory provisions). The policy in particular identifies how enforcement will be prioritised towards higher risk (or higher community impact) activities and sets out the Council's general approach to regulation. The draft policy is at **Annex 1**.
- 1.1.2 The policy adopts a proportionate and risk-based approach, where lower-impact or lower-risk activities are first addressed through advice and assistance (which may be escalated if compliance is not achieved) through to formal notice, penalty notice or prosecution/ other legal action for higher risk or higher impact activities. By taking this approach, the policy aligns with national guidance on local authority enforcement and with the Council's vision of providing good value for money services and strong local leadership, by the use of targeted enforcement.
- 1.1.3 Whilst many services already operate a service-specific policy (for example, Planning Enforcement, Licensing) a number of services do not. For those services, the policy will provide a starting point for officers in guiding their enforcement activities and ensuring the right measures are used in the right circumstances. Where services have their own policy, the corporate policy will underpin their enforcement activities.

### **1.2 Legal Implications**

- 1.2.1 Whilst there is no legal requirement for the authority to have such a policy, it is generally seen as good practice to publicise the general approach to regulation which the Council seeks to adopt. This is also in line with the transparency agenda and national guidance regarding regulatory activities. The policy operates in addition to all existing legal requirements upon the Council in its regulatory activities.

- 1.2.2 The policy will assist in providing reasoned justification for why a particular approach has been taken in a particular case, or where the Council has decided not to take action. This may be valuable in defending the Council's stance on a particular issue (whether in the courts or otherwise). Furthermore, by detailing the approach the Council will take to costs recovery in the courts, this will provide a valuable evidence base to present to a bench in order to justify the costs we seek to recover and it is hoped that this will enhance the Council's costs recovery.

### **1.3 Financial and Value for Money Considerations**

- 1.3.1 There are no particular financial or value for money considerations for the adoption of this policy. By stating the Council's basis of cost recovery for court proceedings there may be a slight uplift (particularly in the Magistrates' Court) in cost recovery when the Council takes legal action.

### **1.4 Risk Assessment**

- 1.4.1 The lack of a Corporate Enforcement Policy was highlighted as a risk item through the recent audit of the Council's risk management procedures.

### **1.5 Equality Impact Assessment**

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

### **1.6 Policy Considerations**

- 1.6.1 Community
- 1.6.2 Crime & Disorder Reduction

### **1.7 Recommendations**

- 1.7.1 It is recommended that Cabinet **ADOPTS** the Corporate Enforcement Policy attached at **Annex 1** to this report.
- 1.7.2 It is also recommended that Cabinet **DELEGATES** any amendments to this policy (to the extent they are necessitated by changes in legislation or national policy) to the Director of Central Services and Monitoring Officer.

Background papers:

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Nil

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