

Somerset West and Taunton Council

Executive – 16 November 2022

New Regulatory Services Enforcement Policy 2022-2023

This matter is the responsibility of Executive Councillor Andrew Sully

Report Author: Joanne Toogood, Regulatory Services Operational Manager

1 Executive Summary / Purpose of the Report

- 1.1 The policies attached to this report explain the Councils approach to enforcement activity. This is to reassure the public and others concerned that the Council deals with enforcement in a fair, considered and transparent manner.
- 1.2 The Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023 is an overarching policy designed to have a number of service specific policies which sit below such as the Private Sector Housing Enforcement Policy 2022-2023.
- 1.3 Both policies were drafted in consultation with the wider Somerset authorities as part of the Environmental Health & Licensing Sub Work Stream with the aim of adoption by all prior to vesting day.
- 1.4 There are no direct financial implications attached to either policy.
- 1.5 Having an adequate policy in place is essential to meet our legal requirements and the principles of good enforcement. Not having an adequate policy therefore undermines the principles of good enforcement and may ultimately result in a failure to protect the public from harm.
- 1.6 The request is for Members to consider and adopt Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023 in Appendix 1 and the Private Sector Housing Enforcement Policy 2022-2023 in Appendix 2.

2 Recommendations

- 2.1 That the Executive adopts the following as council policy:
 - Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023
 - Somerset West and Taunton's Private Sector Housing Enforcement Policy 2022-2023

3 Risk Assessment

- 3.1 Having an adequate policy in place is essential to meet our legal requirements and the principles of good enforcement. It also serves to inform officers and decision makers of the framework under which they operate, in addition to providing information to those people, organisations and businesses which are regulated and those protected by regulation.
- 3.2 Not having an adequate policy therefore undermines the principles of good enforcement, can impact upon legal proceedings and may ultimately result in a failure to protect the public from harm.
- 3.3 This report does not relate to any of the risks identified in the Corporate Risk Register.

4 Background and Full details of the Report

- 4.1 The purpose of this policy is to ensure compliance with Regulators' Code published in 2014 and the principles of good enforcement. Section 6 of that code sets out the governments expectation that local authorities will ensure that their approach to their regulatory activities is transparent and easily understood. The provisions of section 6 includes an expectation that local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them. This includes their enforcement policy, explaining how they respond to non-compliance.
- 4.2 Taunton Deane Borough Council and West Somerset Council adopted the Somerset Authorities Environmental Health Enforcement Policy 2009 but the later Somerset Regulatory Enforcement Policy 2016-2020 which was drafted by the Somerset Heads of Regulatory Services Group was not adopted. We currently do not publish a copy of any enforcement policy on our website.
- 4.3 Published service standards are important for regulators to show that they are meeting their responsibility under statutory principles of good regulation to be accountable and transparent about their activities. The Regulators' Code requires that published service standards should be easily accessible, clearly signposted and kept up to date.
- 4.4 The 2009 policy is no longer fit for purpose and could leave Somerset West and Taunton vulnerable to criticism over enforcement action.
- 4.5 As part of the Local Government Reform programme, Environmental Health and Licensing, sub workstream we have drafted a new Somerset Corporate Enforcement Policy 2023-2028 to be adopted ahead of vesting day by Somerset Council. All workstreams have been consulted on the new policy and amends made as appropriate to incorporate comments received.
- 4.6 The Somerset West and Taunton Regulatory Services Policy (Appendix 1) has been drafted based on the above policy and is designed to cover the enforcement activities of Environmental Health, Licensing and Planning Enforcement.
- 4.7 In addition to this it has been decided to produce and adopt the Private Sector Housing Enforcement Policy 2022-23 in Appendix 2. This separate policy document has been

produced to give more specific detailed advice covering the work of the Private Sector Housing team, part of the Environmental Health service and a key regulatory service. This policy should be read in conjunction with Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023 (Appendix 1).

4.8 The Housing and Planning Act 2016 requires the authority to develop a policy on financial penalties, this is contained within appendix 1 of the SWT Private Sector Housing Enforcement Policy 2022-23.

4.9 In summary, the Council can issue a financial penalty of up to £30,000 for the most serious offences where there is a very high level of culpability and a high level of harm. The policy describes what factors will be taken into account in establishing the level of penalty and it is expected that most fines will be significantly below the maximum. A table of fine levels can be found on page 30 of the financial penalty policy (Appendix 1 of the SWT Private Sector Housing Enforcement Policy 2022-2023 (Appendix 2)).

5 Links to Corporate Strategy

5.1 One of the Council's Corporate objectives is to 'Deliver excellence in the way the Council conducts its business'. These policies explain the Council's approach to enforcement activity. This is to reassure the public and others concerned that the Council deals with enforcement in a fair, considered and transparent manner.

6 Finance / Resource Implications

6.1 There are no direct financial implications arising from adopting this policy.

6.2 Poorly managed enforcement and/or a failure of legal proceedings can result in resources being used wasted and costs being awarded against the Council.

7 Unitary Council Financial Implications and S24 Direction Implications

7.1 See comments above (section 6)

8 Legal Implications

8.1 If we do not have an appropriate enforcement policy in place for the statutory functions of the relevant enforcement services, we may not meet the legal requirements that are our duty as a regulatory authority. Specifically, as set out in the Regulators' Code 2014 (Department of Business Innovation and Skills – now Department for Business, Energy and Industrial Strategy), the Code of Practice Powers of Entry 2014 (Home Office) and the provisions outlined in the Legislative and Regulatory Reform Act 2006 and the Regulatory and Enforcement Sanctions Act 2008.

9 Equality and Diversity Implications

9.1 A full assessment is not necessary for this report.

9.2 The policy has been reviewed in accordance with the requirements of the Equality Act 2010 and it complies with the public sector Equality Duty. This is underpinned by virtue

of the policy seeking to ensure the overarching principles of good enforcement are met and that all our enforcement activities are carried out in a fair, consistent and equitable manner irrespective of the otherwise protected characteristics of individuals subject to enforcement and regulatory action.

- 9.3 The policy does recognise there may be circumstances where alternative enforcement actions including no action are undertaken due to the vulnerability of the persons involved which may include a mental or physical disability. In these situations, any deviation from a standard policy approach will be considered on a case by case basis and an assessment will be carried out in conjunction with available information.

10 Consultation Implications

- 10.1 Both policies were drafted in consultation with the wider Somerset authorities as part of the Environmental Health & Licensing Sub Work Stream and will hopefully be adopted by Somerset Council for vesting day.

Democratic Path:

- **Scrutiny / Audit and Governance Committee – Yes (Date) / No** (delete as appropriate)
- **Executive – Yes (Date) / No** (delete as appropriate)
- **Full Council – Yes (Date) / No** (delete as appropriate)

Reporting Frequency: Once only

List of Appendices (background papers to the report)

Appendix A	Somerset West and Taunton Regulatory Services Enforcement Policy 2022-2023
Appendix B	Somerset West and Taunton Private Sector Housing Enforcement Policy 2022-2023

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