

SLOUGH BOROUGH COUNCIL

REPORT TO: Council

DATE: 22nd July 2014

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WARD(S): All

PART I **FOR DECISION**

RECOMMENDATIONS OF THE CABINET FROM ITS MEETINGS HELD ON 23rd JUNE 2014 AND 14th JULY 2014

1. Purpose of Report

- 1 To advise the Council of the recommendations of the Cabinet on the following matters:

Cabinet meeting held on Monday 23rd June 2014

- A. Statutory Service Plans.
- B. Consumer Protection and Business Compliance Enforcement Policy.

Cabinet meeting held on Monday 14th July 2014

- C. Salt Hill Park Path Improvements (to follow).

A. STATUTORY SERVICE PLANS

1 Introduction

To advise the Council of the recommendation of the Cabinet on approval of the Statutory Service Plans (SSPs) for 2014/15 in relation to.

- Food Safety Service (as set out in Appendix A1)
- Health and Safety Service (as set out in Appendix A2)
- Trading Standards Service (as set out in Appendix A3)

in accordance with the requirements laid down by external agencies.

2 Recommendation(s)/Proposed Action

The Council is requested to Resolve that the Statutory Service Plans in relation to the Food Safety, Health & Safety and Trading Standards work undertaken by the Council be endorsed.

3 The Joint Wellbeing Strategy, the JSNA and the Corporate Plan

3a. Slough Wellbeing Strategy Priorities

The Plans ensure that the Council is able to fulfil its statutory obligations under the relevant Regulatory Services legislation. However, the focus of projects within all the Services is geared towards Sloughs specific community and business needs, based on local intelligence, our work with partners and the Joint Strategic Needs Assessment (JSNA), The Joint Wellbeing Strategy and the Corporate Plan

Examples of where the plans contribute to the Slough's priorities include:

- **Economy and Skills**
 - Supporting local businesses in meeting their legal requirements ' through low cost training; 'Buy with Confidence' and Food Hygiene courses; recognising good standards in food businesses with the Food Hygiene Rating Scheme
 - Partnerships with businesses in the Primary Authority Scheme, providing regulatory compliance advice for businesses trading beyond the boundaries of Slough, reducing the regulatory burden upon those businesses and contributing to the prosperity of the town.
 - Developing with other Council teams and 'Open for Business' approach.
- **Health**
 - Supporting and encouraging all the cuisines in Slough to provide safe food through inspections and interventions and the Food Hygiene Rating Scheme (FHRS)
 - Catering for Health award supporting businesses to provide choices, including the safe importation of ethnic foods.
 - Reducing risks in the work place with investigations, interventions and specific projects based upon Sloughs needs such as Legionella control,
 - Increasing awareness of food labelling and healthy eating, contributing to reducing obesity rates in Slough;
- **Regeneration and Environment**
 - Advice for Slough businesses on waste and pest control; animal by-products waste disposal; safe asbestos disposal
- **Safer Slough**
 - Underage sales education and enforcement; projects to reduce the incidence of violence in retail and licensed premises e.g. Loan Shark project, Community Alcohol Partnership (CAP) and supporting work for the Local Alcohol Action Area (LAAA)
 - Safeguarding migrant and other vulnerable workers
- **Housing**
 - Supporting owners and landlords to provide Energy Performance Certificates for accommodation

3b. Slough Wellbeing Strategy: Cross-Cutting themes –

Civic responsibility

The majority of businesses in Slough want to be able to comply with legal requirements concerning food safety, fair trading and health & safety, The Service Delivery Plans are designed to help support businesses towards compliance with a graduated enforcement approach commencing with advice and sign posting to detailed information. Schemes such as Buy with Confidence and the Food Hygiene Rating Scheme recognise and reward businesses that do well; encouraging residents to use their local services and shops.

Improving the image of the town

The Plans set out how the Council will meet its statutory obligations to maintain the pre-requisites that residents and visitors expect in a town like Slough; to be able to eat out without becoming ill, go to work without being injured, buy safe goods in the town's shops. The plans detail essential work that will both protect the reputation of Slough and improve its image.

A core part of the Plans is the provision of assured regulatory advice to 34 national and international businesses and trade associations via the Primary Authority scheme. Slough has become a leader in the provision of Primary Authority advice contributing to the prosperity of the town and identifying Slough as a town that aims to reduce the regulatory burden for businesses.

Joint Strategic Needs Assessment (JSNA)

Key objectives are informed by evidence from the JSNA and aim to deliver positive outcomes via both legislative action and behaviour approaches to improve public and workplace health for example:

- **Reduce Inequalities in health.** Smoke free enforcement, tobacco control, underage sales test purchasing and counterfeit or illegally imported tobacco products investigations in partnership with SBC Licensing, Thames Valley Police and Immigration Enforcement.
- **Reduce Adult and childhood Obesity.** The Plans detail work on nutritional awareness and the roll out of catering for health in the Slough Community, together with a school meals survey which provides baseline data.
- **Improve the quality and availability of housing and environment for Slough residents.** Support for the Slough Sheds project with Energy Performance Certificates (EPCs) enforcement and advice
- **Increase skills and employment opportunities.** Provide assured advice for businesses in Slough and specialist training for food handlers. Supporting legitimate businesses to prosper.
- **Reduce violent crime, domestic abuse and sexual abuse.** Advice and support in relation to control of underage sales of alcohol and knives, provision of proof of age cards.

3c. Corporate Plan 2014/15

The Plans link directly to the Corporate Plan and the Council's vision through the food safety, health and safety, and trading standards action plans for the front line delivery of services;

- Improve customer experience – we seek and act upon feedback from our customers, aiming to simplify access to the service with more online information and supporting the development of ‘Open for Business’
- Deliver high quality services to meet local needs. Services are based upon local evidence of risk and need and are targeted specifically for Slough’s residents, visitors and businesses.
- Develop new ways of working, deliver local and national change, develop a skilled and capable workforce. Expanding our regulator services to businesses in order to increase income and work towards offsetting the cost of service delivery.
- Deliver local and national change and improvement. Supporting the Town Centre initiatives and responding to new statutory service requirements.
- Promote economic growth and protect the Council’s finances. Developing an improved approach to increase inward investment retention of existing businesses and entrepreneurship via Primary Authority support and ‘Open for Business’ approach, ensuring a level playing field for Slough business by dealing with rogue traders.

4 Other Implications

(a) Financial

It is anticipated that the plans will be implemented within existing resources. However, the situation will be closely monitored as unplanned reactive pressures, such as major investigations, will have resourcing implications which will be reported to members for their consideration.

Costs recovered from Primary Authority work will be used to help off set the cost of service delivery and contribute to the council’s savings targets as appropriate.

(b) Risk Management

Risk	Mitigating action	Opportunities
Legal	None	
Property	None	
Human Rights	None	Protection of worker and consumer rights in Slough
Health and Safety	None for SBC workforce. Risk Assessments are in place for all officer activities	Supporting businesses in Slough toward sensible risk management, enhancing health & safety conditions in Slough
Employment Issues	None	Costs recovered from Primary Authority can offset service delivery costs helping to maintain a flexible and resilient workforce to meet Sloughs needs

Equalities Issues	None. Equality Impact Assessments have been completed	The work of the teams actively supports equality in the work place for example, with disability access and awareness issues.
Community Support	None	The teams engage in neighbourhood and Community action events
Communications	None	The Teams engage with businesses and residents on a daily basis Regular press releases and newsletters are issued we have regularly interview slots on BBC Radio Berkshire
Community Safety	None	Underage sales, rogue traders, loan sharks activities support the Safer Slough Partnership priorities.
Financial	Risk from complex criminal investigations or outbreaks that demand considerable officer time resulting in pressure upon resources to complete statutory work within timescales set by national enforcement bodies. Increased costs from legal fees not fully recovered. Mitigated by the re-prioritisation of resources where possible.	The income from Primary Authority work can be used to offset cost of service delivery
Timetable for delivery	Risk from complex criminal investigations or outbreaks that demand considerable officer time resulting in pressure upon resources to complete statutory work. Mitigated by the re-prioritisation of resources where possible.	
Project Capacity	Risk from complex criminal investigations that demand considerable officer time resulting in pressure upon resources to complete statutory work. Mitigated by the re-prioritisation of resources where possible.	

Other Failure to endorse the SDPs	Serious risk to delivery of statutory obligations, failure to delivery on projects that impact positively on health & well being issues in Slough. Potential risk to Slough Borough Council reputation.	
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Human Rights Act and Other Legal Implications

There are no Human Rights Act Implications, the work detailed in the Plans is based upon UK and European legislation that has already been assessed in terms Human Rights Act Implications

Equalities Impact Assessment

Equalities Impact assessments have been completed on key policies contained within the Plans. However, the work detailed in the Plans is based upon UK and European legislation that has already been assessed in terms of Equality Impact Assessment.

5 Supporting Information

5.1 National guidance on the delivery of the Authority's enforcement activities is issued by The Food Standards Agency, the Health and Safety Executive and the Department for Businesses, Innovation and Skills; setting out standards for service provision, monitoring and auditing arrangements, in order to ensure that local enforcement activities are undertaken in a robust and fair consistent manner in line with the Regulators Code and our Enforcement Policy.

5.2 The Plans are an important part of the process to ensure national priorities and standards are addressed and delivered to meet local needs effectively. These Plans, which are required to be reviewed and updated annually, will

- focus on local priorities and the needs of our local community
- provide an essential link with financial planning
- set objectives for the future, and identify major issues that cross service boundaries;
- and provide a means of managing performance and making performance comparisons

5.3 Local authorities are required to include in their Statutory Service Plans

- Information about the services they provide
- the means by which they will provide those services
- the means by which they will set/monitor performance targets and standards
- a review of performance against proposed targets

5.4 Primary Authority is a statutory scheme which enables partnerships to be formed between business and local authorities. The aim being to streamline and simplify the national regulatory compliance demands on local businesses in relation to trading standards, food and health & safety matters. The scheme has been

phenomenally successful in Slough and we have now secured 34 successful agreements with national and international businesses based in the town such as; Reckitt Benkiser, Mars, Telefonica, Citroen, Fiat and Burger King. The scheme continues to grow with the recent addition of two trade associations.

5.5 Statutory Service delivery will continue to focus very specifically upon areas of high risk whilst aiming to reduce the regulatory burden on compliant business: continuing to make the best use of the resources we have available and ensuring positive outcomes and value for money.

5.6 We will seek to strengthen existing partnerships and develop others to ensure effective delivery across service areas; using an evidenced based approach to help deliver services that meet the specific needs of Slough based upon the evidence available supporting the Corporate Plan and the Safer Slough Partnership

6 Comments of Other Committees

The Cabinet considered the Statutory Service Plans at its meeting on 23rd June 2014 and resolved to Recommend endorsement of the plans to Council.

7 Conclusion

The proposed Plans illustrate our commitment to continuous improvement and accountability, whilst responding flexibly to ongoing changes in both the regulatory and consumer landscapes nationally and locally. They also show how the Council has successfully adopted a balance of techniques and approaches to support local businesses, drive up compliance, enhance consumer protection and promote, with our partners, safety and wellbeing in the workplace and our communities.

8 Appendices

- A1 Food Safety & Standards Service Delivery Plan 2014/15
- A2 Health & Safety Service Delivery Plan 2014/15
- A3 Trading Standards Service Delivery Plan 2014/15

9 Background Papers

- '1' Food Standards Agency Code of Practice (Revised 2014)
- '2' National Local Authority Code, Health & Safety at Work. (2013)
- '3' Primary Authority Handbook. Local Better Regulation Office (2014)

B. CONSUMER PROTECTION AND BUSINESS COMPLIANCE ENFORCEMENT POLICY

1 Introduction

For Members to review and approve the revised Consumer Protection and Business Compliance (previously Public Protection) Enforcement Policy as set out in Appendix B1.

2 Recommendation(s)/Proposed Action

The Council is requested to resolve:

- (a) That the draft Consumer Protection and Business Compliance Enforcement Policy be endorsed.
- (b) To consider recommending that the revised policy be adopted by all other regulatory and enforcement service areas where appropriate within the Council.
- (c) That the Head of Consumer Protection and Business Compliance Services be authorised to make minor amendments to the adopted Policy as required to reflect changes in legislation or guidance and codes of practice where a full review of the Policy is not warranted.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Corporate Plan

3a. Slough Joint Wellbeing Strategy Priorities – The Enforcement Policy supports the effective, consistent, proportionate, robust and accountable delivery of the Council’s statutory regulatory services which underpin key parts of the SJWS, the JSNA and the Corporate Plan, for example:

- Economy and Skills: enforcement action against rogue traders to ensure a level playing field for Sloughs local businesses to grow and prosper
- Health and Wellbeing: protecting the vulnerable from doorstep sales, loan sharks and underage sales; dealing for poor standards of hygiene in food premises
- Safer Communities; supporting action against anti-social behaviour

4. Other Implications

(a) Financial - There are no financial implications. The policy will be fully met within existing budgets

(b) Risk Management

Risk	Mitigating action	Opportunities
Legal	Quality assurance procedures will ensure that enforcement decisions are taken in line with the revised Policy document.	All regulatory services are required to have in place an Enforcement Policy having regard to the Regulators Code. The revised policy sets out a transparent, risk based and graduated approach to enforcement.

Property	None	None
Human Rights	As detailed at (c) below	As detailed at (c) below
Health and Safety	None	None
Employment Issues	None	None
Equalities Issues	As detailed at (d) below	As detailed at (d) below
Community Support	None	None
Communications	None	None
Community Safety	None	None
Financial	As detailed in (a) above	As detailed in (a) above
Timetable for delivery	Approved by Cabinet on 23 rd June 2014 to recommended to Council on 22 nd July 2014.	Approved by Cabinet on 23 rd June 2014 to recommended to Council on 22 nd July 2014.
Project Capacity	None	None
Other	None	None

(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998, apply:

- Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest
- Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

The revised draft Policy document has regard to both Article 1 and Article 6 as above.

Section 21 of the Legislative and Regulatory Reform Act 2006 (the “Act”) imposes a duty on any person exercising a specified regulatory function to have regard to the five principles of good regulation. This principle provides that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.

Section 22 of the Act provides for the issue of a code of practice relating to the exercise of regulatory functions, (the “Regulators’ Compliance Code”). This section imposes a duty on any person exercising a specified regulatory function to have regard to the Regulators’ Compliance Code when determining general policies or principles by reference to which that person exercises those functions.

Under Section 22(3) of the Act, where a person exercises a regulatory function of setting standards or giving general guidance about the exercise of other regulatory functions, the duty to have regard to the Regulators’ Compliance Code applies directly to the exercise of setting that function of setting standards or giving general guidance. Through the Legislative and Regulatory Reform Act 2006, the Better Regulation Delivery Office (BRDO) issued the “Regulators’

Code” which came into statutory effect on 6 April 2014. It replaces the previous Regulators’ Compliance Code, and is designed to provide clearer understanding for both the regulators and those regulated of the regulatory framework.

Regulators must have regard to the Code when setting standards or giving guidance which will guide the regulatory activities of other regulators. Therefore the Council is required to reconsider its enforcement policies and procedures in light of the new Code.

The Local Authorities (Functions & Responsibilities) (England) Regulations 2000 sets out a scheme for dividing the Council’s regulatory functions into either Council side or Executive (Cabinet) functions. The regulatory functions which come under the remit of the Corporate Enforcement Policy consist of both Council and Executive functions and it is therefore appropriate to consider the Policy and make recommendations prior to approval by full Council.

(d) Equalities Impact Assessment

An Equalities Impact Assessment has been completed. The Assessment has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken.

5. Supporting Information

- 5.1 In April 2012 Cabinet approved a comprehensive Enforcement Policy for the then Public Protection Service..
- 5.2 During the Course of 2012 changes were made to the structure of the Customer and Community Services Directorate creating a new Consumer Protection and Business Compliance Service (CP&BC) area which includes Food and Safety, Trading Standards, Licensing and most recently Community Safety.
- 5.3 The Policy is being reviewed to take account of changes in legislation and the introduction of a new Regulators Code. Due to statutory requirements the policy must be approved by both Cabinet and Council. The intention of the new policy is to create a clearer, consistent approach covering all regulatory services across the Council. This is to further enhance and formalise our joint working and partnership approach.
- 5.4 The previous Enforcement Policy document has been revised and updated to reflect the introduction of the Regulators Code. The Code is designed to regulate for the protection of the vulnerable, the environment, social or other objective, whilst seeking to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate. The revised draft document for approval is attached at **Appendix B1**
- 5.5 The Regulators Code is central to the better regulation agenda, embedding a risk based and transparent approach to regulatory inspection and enforcement activity.
- 5.6 A Corporate Enforcement Policy promotes a consistent approach and ensure that all departments involved in enforcement are complying with its principles. At the same time it allows the flexibility for each service area to develop its own enforcement mechanisms taking on board the legal and operational differences

between the service areas. For example, the unique requirements associated with the closure of food premises. The specialist policies will be updated, audited and reviewed by the relevant departments.

- 5.7 The revised policy document provides guidance to officers, managers, businesses and consumers in relation to the enforcement actions and decisions taken by CP&BC services areas.
- 5.8 Although the revised document relates at this time to the Consumer Protection and Business Compliance services, the 'General Principles' at **Point 5** and the overview of 'Enforcement Actions' at **Point 6** do apply to all other regulatory and enforcement service areas within the Council.
- 5.9 With regards to Penalty Charge Notices, these are a specifically prescribed enforcement action relating to Parking Enforcement and have been included in the revised document following consultation with the Team Leader - Parking Enforcement and Development, during the consultation period.
- 5.10 The revised document has been subject to a consultation process which has included internal service areas, identified consultees as well as the public. A full list of consultees, their responses and a reply to the responses is attached at **Appendix B2**.

6. Comments of Other Committees

The policy was considered by the Cabinet at its meeting on 23rd June 2014 and it was agreed to Recommend to Council.

7. Conclusion

The revised draft Policy sets out in an open and transparent manner, the local authority's approach to enforcement and demonstrates a firm commitment to the statutory obligations under the Regulators Code. The policy will also ensure that enforcement decisions are taken in a proportionate, fair and consistent manner based on risk.

8. Appendices Attached

- B1 - Draft Consumer Protection and Business Compliance Enforcement Policy (June 2014)
- B2 - Consultation consultees, responses and replies

9 Background Papers

- 1 - Regulators Code (April 2014)
- 2 - Equality Impact Assessment
- 3. - Public Protection Enforcement Policy (April 2012)