

<b>Cabinet</b>	
<b>Meeting Date</b>	12 February 2020
<b>Report Title</b>	Environmental Health Enforcement Policy 2020
<b>Cabinet Member</b>	Cllr Tim Valentine, Cabinet Member for Environment
<b>SMT Lead</b>	Nick Vickers, Chief Finance Officer
<b>Head of Service</b>	Tracey Beattie, Mid Kent Environmental Health Manager
<b>Lead Officer</b>	Tracey Beattie, Mid Kent Environmental Health Manager
<b>Key Decision</b>	Yes
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. To approve the adoption of the draft Environmental Health Enforcement Policy 2020

## **1 Purpose of Report and Executive Summary**

- 1.1 This report updates and revises the existing enforcement policies for the Mid Kent Environmental Health Service 2015. The revision incorporates new legislation relevant to environmental health and changes, as a result of taking enforcement action, to clarify the context of actions we can take.
- 1.2 The 2020 enforcement policy provides a framework for our enforcement decisions to be consistent, transparent and proportionate. It allows businesses, organisations and the community to be aware of the basis on which enforcement action is taken. The service seeks to protect the health and wellbeing of individuals from harm whether it is from food, noise, pollution or poor health and safety practices and to protect the environment.

## **2 Background**

- 2.1 The current Environmental Health Enforcement Policy 2015 covers the aspects of the work of the Mid Kent Environmental Health Service. However it is good practice to carry out regular reviews to ensure that it meets the needs of legislation and in the light of enforcement experience. We also review our policies to ensure that any changes made in national guidance since the last policy review are included within the revision. Until the new policy is approved, enforcement decisions made will be under the existing policy.
- 2.2 Solicitors from the Contentious Team, Mid Kent Legal Services have been consulted and worked with the author to ensure that it receives their support.

- 2.3 The enforcement policy provides managers and officers with guidance and a framework for the enforcement process. It does not determine the outcome of individual cases. The policy also provides businesses and individuals with clear indications on how they will be treated. It should provide them with the confidence that enforcement action is consistent and proportionate to any non-compliance.
- 2.4 In terms of decision making within individual service areas, officers are authorised according to their competency and role, these are reviewed annually. This together with a clear decision making process helps to embed consistent standards in the service. As a general principle, officers follow a stepped approach to enforcement, but where there are serious or flagrant breaches of legislation, or there is imminent risk to health or welfare of people, immediate enforcement action may be considered.
- 2.5 The policy also identifies that sometimes the local authority has no power to act when complaints are made. For example when we are not the regulator or where the problem and its solution sit outside any statutory powers, for example civil or common law.

### **3 Proposals**

- 3.1 The adoption of the revised Environmental Health Enforcement Policy 2020 will ensure that the service has a robust and up-to-date version that reflects the latest national guidance and incorporates legislation enacted since the current version was approved.
- 3.2 The revised policy is more comprehensive, covering additional legislation environmental health can implement such as aspects of the Anti-social Behaviour, Crime and Policing Act 2014. It also reflects processes introduced in the Co-ordination of Regulatory Enforcement Regulations 2017.

### **4 Alternative Options**

- 4.1 Cabinet can choose not to approve the 2020 policy however the current policy will not include the legislation mentioned in paragraph 3.2 and this will weaken the policy should officers be faced with a challenge to any enforcement actions.

### **5 Consultation Undertaken or Proposed**

- 5.1 No consultation process is considered necessary for the revision of the enforcement policy. National guidance and best practice were considered and used in its drafting.

## 6 Implications

Issue	Implications
Corporate Plan	The Environmental Health Enforcement Policy 2020 supports the Corporate Plan by providing businesses with transparent and consistent approach to regulation and protecting public health of communities.
Financial, Resource and Property	There are no financial implications associated with the adoption of the policy
Legal, Statutory and Procurement	<p>The recommendations provide a comprehensive and consistent single enforcement policy across the Environmental Health Service.</p> <p>The legal implications are set out in the body of the report, see in particular 4.1 and 4.2 of the draft policy. The draft policy has been prepared in accordance with legislation and relevant statutory guidance.</p>
Crime and Disorder	The proposal will provide officers with a sound basis for dealing with non-compliance with regulations it enforces through the Mid Kent Environmental Health Service.
Environment and Sustainability	The policy will assist with environmental enforcement.
Health and Wellbeing	No health inequality implications were identified through the implementation of the proposed revision of enforcement policy.
Risk Management and Health and Safety	The risks associated with this proposal, including the risks if the Council does not act as recommend have been considered in line with the Council's Risk Management Framework.
Equality and Diversity	Consideration of the protected characteristics has been made in the Enforcement Policy and as a consequence due regard to equality and diversity should be made when undertaking enforcement action.
Privacy and Data Protection	The proposal takes into account the needs of Data Protection legislation. No privacy impact assessment has been undertaken.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Environmental Health Enforcement Policy 2020

## **8 Background Papers**

None