

Wards Affected:

All Wards

ITEM 11**CABINET****3 JANUARY 2017****CORPORATE ENFORCEMENT POLICY**

Responsible Cabinet Member Councillor Legg – Cabinet Member for Customer Services

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Executive Summary:

Milton Keynes Council regularly reviews its policies to confirm that they are up to date and complies with any recent guidance or changes in legislation. This report seeks to update the Enforcement Policy following the introduction of the statutory regulators code.

1 Recommendation(s)

1.1 That the updated Corporate Enforcement Policy be adopted.

2 Issues

- 2.1 The Council's Corporate Enforcement Policy ("Policy") was last updated on 13 September 2012. Since the last update the Government has introduced a statutory Regulators Code ("the Code").
- 2.2 The Legislative and Regulatory Reform Act 2006 as amended in 2014 states that the Council must have regard to the Code in determining any general policy in the exercising of its regulatory functions.
- 2.3 The Code has been set by the Secretary of State and the Policy is required to be drafted in line with the Code. The Code lays down the principles that regulatory action should be transparent, accountable, proportionate and consistent and the Policy has therefore been reviewed to make sure it is complying with the new Code.
- 2.4 The Government Enforcement Concordat, which was a voluntary code, was the basis for the previous Policy. The new statutory code does not replace the concordat and contains many of the same principles; as such the new Policy still mirrors the format of the concordat with the additional requirement of the right to appeal an enforcement decision which is now contained in the Code.
- 2.5 The Council undertakes a number of regulatory and enforcement functions across the whole Council which include School Attendance, Planning Enforcement, Private Sector Housing as well as all of those undertaken by the Regulatory Service.

- 2.6 The Code does not apply to all regulatory and enforcement functions, however the principles in the Code is good practice for all Council enforcement actions and thus the Policy will act as an overarching framework for all regulatory and enforcement functions of the Council.
- 2.7 As the Code is statutory the Policy must be drafted in line with the code, it is not considered that consultation is appropriate as the contents of the Policy is a requirement.
- 2.8 Further as the Policy is drafted in line with the Code and the Concordat then unless there are changings in legislation, guidance or a new code, it is proposed that the Policy will only be reviewed as and when there are any changes that would require a review.

3 Options

- 3.1 The Council must update the Policy as the 2012 Policy was not drafted taking into account the Regulators Code.

4 Implications

4.1 Policy

None.

4.2 Resources and Risk

There is a risk if enforcement action is taken and the code is not complied with as the decisions could be challenged.

X	Capital	Y	Revenue	X	Accommodation
X	IT	X	Medium Term Plan	X	Asset Management

4.3 Carbon and Energy Management

None

4.4 Legal

Section 22 of the Legislative and Regulatory Reform Act 2006 states:

(1) A Minister of the Crown may issue and from time to time revise a code of practice in relation to the exercise of regulatory functions.

(2) Any person exercising a regulatory function to which this section applies must, except in a case where subsection (3) applies, have regard to the code in determining any general policy or principles by reference to which the person exercises the function.

(3) Any person exercising a regulatory function to which this section applies which is a function of setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code in the exercise of the function.

X	Equalities/Diversity	X	Sustainability	X	Human Rights
X	E-Government	X	Stakeholders	Y	Crime and Disorder

Annex: Corporate Enforcement Policy
Background Papers: Dept. for Small Business and Skills Regulators Code
DTI Enforcement Concordant - Good Practice Guide
for England and Wales