

Environmental Health, Waste Crime and Community Protection Enforcement Policy 2019

Final Decision-Maker	Communities, Housing and Environment Committee
Lead Head of Service	<i>John Littlemore, Head of Housing and Community Services</i>
Lead Officer and Report Author	Tracey Beattie, Mid Kent Environmental Health Manager and Martyn Jeynes, Community Protection Manager
Classification	Public
Wards affected	<i>All</i>

Executive Summary

This report updates, revises and combines the existing enforcement policies for both the Mid Kent Environmental Health Service and Maidstone's Community Protection Team and Waste Crime, as both service areas cover environmental and public health legislation and share similar processes. The 2019 enforcement policy provides a framework for 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.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. To approve the adoption of the Environmental Health and Communities Protection Enforcement Policy 2019

Timetable

Meeting	Date
Committee	18 June 2019

Environmental Health, Waste Crime and Community Protection Enforcement Policy 2019

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>The draft policy has elements that will support all of the priorities listed in the Strategic Plan.</p>	Tracey Beattie Mid Kent Environmental Health Manager
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation supports the achievement of the Health Inequalities and Environmental Sustainability cross cutting objectives by providing clear guidelines for the enforcement of public health and the environmental protection legislation.</p>	Tracey Beattie Mid Kent Environmental Health Manager
Risk Management	<p>The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework.</p>	Tracey Beattie Mid Kent Environmental Health Manager
Financial	<p>The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.</p>	[Section 151 Officer & Finance Team]
Staffing	<p>We will deliver the recommendations with our current staffing.</p>	John Littlemore,

		Head of Communities and Housing
Legal	<p>The recommendations provide a comprehensive and consistent single enforcement policy across the Environmental Health Service and the Community Protection Team.</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 the framework.</p>	Sarah Beasley, Lawyer Mid Kent Legal Services
Privacy and Data Protection	Accepting the recommendations will not increase the volume of data held by the Council. We will hold that data in line with our retention schedules.	Tracey Beattie Mid Kent Environmental Health Manager
Equalities	<p>The recommendations do not propose a change in service therefore will not require an equalities impact assessment</p> <p>However, we recognise the diversity of our business client group and will ensure that the communication of the revised Policy is reflective of this.</p>	Tracey Beattie Mid Kent Environmental Health Manager
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Tracey Beattie Mid Kent Environmental Health Manager
Crime and Disorder	The recommendation will have a positive impact on Crime and Disorder. The Community Protection Team have been consulted and mitigation has been proposed	Martyn Jeynes, Community Protection Manager
Procurement	No implications identified	John Littlemore, Head of Communities and Housing

2. INTRODUCTION AND BACKGROUND

- 2.1 The Mid Kent Environmental Health Service, Waste Crime and the Community Protection Team operate with environmental and public health legislation that can impact on people and businesses in our community. Each of these services seek to protect the health and wellbeing of individuals from harm whether this is from food, noise, smoke or poor health and safety practices and to protect the environment.
- 2.2 Currently the Mid Kent Environmental Health and Community Protection and Waste Crime Teams have separate enforcement policies, which cover the specific aspects of the work we engage with. But it is good practice to carry out regular reviews to ensure that they meet the needs of the 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 Mid Kent Environmental Health, Waste Crime and Community Safety Enforcement Policy 2019 is approved, each service will continue to carry out enforcement actions under their existing enforcement policies.
- 2.3 There are many aspects of the work Environmental Health, Waste Crime and Community Protection deliver, in terms of legislation and enforcement process and it is proposed that we could review and update our separate policies into one combined enforcement policy. To this end the authors have collaborated to develop one enforcement policy that captures the remit of the three service areas, reflects national guidance and best practice within one policy. We have also worked closely with the Contentious Team, Mid Kent Legal Service, to ensure the policy meets with their approval.
- 2.4 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 both 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 with any non compliance.
- 2.5 In terms of decision making within individual service areas, officer are authorised according to their competency and role, these are reviewed annually. Each service, Mid Kent Environmental Health, Waste Crime and Community Protection have clear decision making processes that help to embed consistent standards in their service areas.
- 2.6 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 the health or welfare of people, immediate enforcement action may be considered.
- 2.7 The policy also identifies that sometimes the local authority have no power to act when complaints are made. For example where we are not the correct regulator or where the problem and its solution sits outside any statutory powers, for example civil or common law.

- 2.8 The enforcement options available to officers in the Mid Kent Environmental Health Service, Waste Crime and Community Protection Teams range from advice and guidance, written warning, statutory notices, fixed penalty notice, seizure, refusal or revocation of approval for food businesses, simple caution, and prosecution. In general most work undertaken by our services involves advice, guidance and written warnings. To provide context, there were 6 health & safety improvement notices and 1 prohibition notice served by Mid Kent Food & Safety team; 40 Community Protection Warnings and 2 Community Protection Notices issued by the Community Protection Team for 2018-19.
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3. AVAILABLE OPTIONS

- 3.1 To approve the combined enforcement policy for both the Mid Kent Environmental Health Service and Community Protection Team. To enable provide better clarity and wider scope than the current individual service policies.
- 3.2 Committee may decide not to approve the policy in its current form and request both services have individual enforcement policies. There will be a delay in adopting the revised enforcement policies and an increase in committee workload with two separate policies coming before committee. There will be no impact on the work of the service areas who will take enforcement decisions based on the current policies.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is the approval of the Environmental Health and Community Protection Enforcement Policy. The policy is comprehensive and extensive consultation with the Mid Kent Legal Service has been undertaken in its preparation. The new policy includes further clarity on options and scope for enforcement not specifically addressed in the existing policies.
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5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at paragraph 2.2. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 No consultation process is considered necessary for the enforcement policy. National guidance and best practice were considered and used in its drafting.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The Enforcement Policy will be published on the Maidstone B C website for view or download. Printed copies will be available at Maidstone Gateway and on request from officers of the services.

8. REPORT APPENDICES

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

Appendix 1: Draft Environmental Health and Communities Protection Enforcement Policy 2019

9. BACKGROUND PAPERS

None