

Committee(s):	Date(s):
Port Health & Environmental Services Committee	16 th September 2014
Subject: Port Health & Public Protection Service Policy Statement on Enforcement	Public
Report of: Director of Markets & Consumer Protection	For Decision
<p><u>Summary</u></p> <p>This report proposes the adoption of an up-dated Policy Statement on Enforcement for all of the regulatory functions of the Port Health & Public Protection Service (PH&PP).</p> <p>The changes to the existing policy statement are required so as to include new statutory guidance introduced since the last updates to the policy were approved 2010.</p> <p>This new guidance is in the form of:-</p> <p>a) <i>The Regulators' Code</i>, a new statutory code of practice made under the Legislative and Regulatory Reform Act 2006 and which places specific duties upon all regulators; and</p> <p>b) a new, up-dated <i>Code for Crown Prosecutors</i> issued by the Director of Public Prosecutions which sets out the general principles for all those prosecuting criminal offences, including local authorities.</p> <p>Recommendations</p> <p>It is recommended that:-</p> <ul style="list-style-type: none"> • a new PH&PP Policy Statement on Enforcement be adopted to replace the existing; and • the policy be publicised accordingly. 	

Main Report

Background

1. In May 2010, the then Director of Environmental Services reported to this Committee and presented an up-dated Policy Statement Enforcement Policy for the department, replacing its earlier predecessor which dated from June 2005.
2. Each of these preceding policies has served the City of London Corporation (CoLC) well, but the current 2010 policy now needs to take account of a range of updates and new documents published by various government departments and

agencies and which now need to be incorporated into all local authorities' statements of regulatory policy.

3. This is in addition to the long-standing requirement by the Food Standards Agency (FSA) and the Health & Safety Executive (HSE) for all food authorities and health & safety enforcing authorities such as the CoLC to have a Policy Statement on Enforcement.

Current Position

4. The primary change has been the introduction of The Regulators' Code, a statutory code of practice made under the Legislative and Regulatory Reform Act 2006 for all regulators, including local authorities and which came into force in April 2014.

5. With respect to the wide variety of regulatory functions exercisable by local authorities this includes the following A-Z selection of regulatory functions carried out by PH&PP:-

- animal health and welfare;
- charities collections;
- consumer and business protection
- environmental pollution;
- estate agents;
- fish, shellfish and fisheries;
- food hygiene and food standards;
- private sector housing;
- imported food ;
- intellectual property;
- licensing;
- public health & safety
- water quality
- weights and measures

as well as functions conferred on local authorities by secondary legislation made under the European Communities Act 1972 in relation to food hygiene, food standards and animal feed, product safety, fair trading etc

6. The Regulators Code' places six main obligations on regulators that they should:-
 - carry out their activities in a way that supports those they regulate to comply and grow;
 - provide simple straightforward ways to engage with those they regulate and hear their views;
 - base their regulatory activities on risk
 - share information on compliance and risk;
 - ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
 - ensure that their approach to their regulatory activities is transparent

7. PH&PP were already complying with most aspects of the code and mechanisms are being put in place including the revision of the Enforcement Policy to ensure that we meet all of its requirements.
8. The second change has been the publishing of a new, up-dated **Code for Crown Prosecutors** issued by the Director of Public Prosecutions and which also applies to local authority prosecutions.
9. It sets out the general principles for all those prosecuting for criminal offences, including local authorities, should follow when they make decisions on cases and these principles are:-
 - a) **Is there enough evidence against the defendant?** - When deciding whether there is enough evidence to charge, prosecutors must consider whether evidence can be used in court and is reliable and credible. They must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each defendant.
 - b) **Is it in the public interest to bring the case to court?** - A prosecution will usually take place unless the prosecutor is sure that the public interest factors tending against prosecution outweigh those tending in favour.

Conclusion

10. The new PH&PP Policy Statement on Enforcement seeks to up-date our existing policy and place all relevant sources of Government guidance into a single document covering regulatory powers exercised by PH&PP, so as to ensure that all our enforcement powers are exercised appropriately.
11. The policy statement will meet the requirements of all relevant agencies and Government departments, and if the Department is audited by bodies such as the Food Standards Agency or the Health and Safety Executive, this document demonstrates that all current guidance has been taken into account.

Recommendations

12. It is recommended that:-
 - a) the new PH&PP Policy Statement on Enforcement (attached as Appendix A) be adopted as policy, replacing the existing with immediate effect; and
 - b) that such change is publicised accordingly.

Corporate and Strategic Implications

There are no Corporate and Strategic implications associated with this policy

Legal Implications

Failure to comply with statutory guidance in respect of the implementation of enforcement policies relating to the discharge of statutory functions could jeopardise subsequent enforcement action.

Consultees

Comptroller & City Solicitor has been consulted in the preparation of this report and his comments are incorporated in the body of the report.

Appendices

Appendix 1 : PH&PP Policy Statement on Enforcement, (*September 2014*)

Background Papers:

- a) The Regulators' Code (*Business, Innovation & Skills, Better Regulation Delivery Office, April 2014*)
- b) The Code for Crown Prosecutors (*Crown Prosecution Service, January 2013*)

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