



Cabinet Meeting

22 October 2014

Report title	Regeneration Compliance and Regulatory Policy Review	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor John Reynolds City Services	
Key decision	No	
In forward plan	No	
Wards affected	All	
Accountable director	Tim Johnson, Education and Enterprise	
Originating service	Regulatory Services	
Accountable employee(s)	Andy Jervis	Head of Regulatory Services
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Report to be/has been considered by	N/A	

Recommendation(s) for action or decision:

The Cabinet is recommended to:

Approve the proposed revised Regeneration Compliance and Regulatory Policy.

1.0 Purpose

To seek Cabinet approval of the proposed revised Regeneration Compliance and Regulatory Policy as it applies to matters falling under the remit of the Council's executive. The draft policy is attached at Appendix A.

2.0 Background

2.1 Regeneration sits within the Council's Education and Enterprise directorate and within its broad remit - which includes:

- Growing the economy and creating jobs
- Maximising investment
- Strengthening economic development
- Regenerating the city and in particular the city centre
- Public protection

2.2 The service is responsible for discharging the majority of the Council's core regulatory and compliance functions. These are delivered, in varying degrees, by the Regulatory Services (Environmental Health, Trading Standards and Licensing), Planning (Development Control and Building Control), Housing (Private Sector) and Transportation (Highway Safety and Traffic Management) services. Responsibility for these services falls to both the executive and non-executive parts of the Council.

2.3 Regeneration seeks to ensure, through a fair and proportionate approach to compliance and enforcement that the highest levels of protection are afforded to the residents and visitors to the city in relation to public health, the built environment and public realm, housing, environmental protection, food safety, trading standards, historic environment and licensing.

2.4 Proportionate, risk based, consistent and supportive regulation, which is aimed at assisting good business with its compliance obligations, plays a key role in delivering, facilitating and complementing these broad aims whilst adequately protecting public and community safety, health and wellbeing. The targeting of resource to the small proportion of intractably non-compliant commercial operations within the city provides both protection to the public through the identification and elimination of risk and also assistance to the majority of good businesses who want to implement and operate at high levels of compliance.

2.5 The current Regeneration Compliance and Regulatory Policy which was last revised and updated in 2011/2012 became due for review in April 2014 following the publication of the Better Regulation Delivery Office (BRDO) Regulators' Code and the recent restructures following revisions to the Council's budgets. The new policy would also need to reflect the outcomes of recent systems thinking reviews in Planning, Environmental Health, Trading Standards and Licensing which have shifted the emphasis of regulatory activity more towards compliance assistance.

- 2.6 It is also important to periodically review the policy to ensure it continues to fully recognise and appropriately respond to the impact of the economic climate on Wolverhampton's commercial sector through the correct balance of assistance to the trade and proportionate application of regulatory powers to address public health and safety risks.
- 2.7 The latest version of the Regulators' Code came into force on the in April 2014 and Regulatory Services has had full regard to it in developing and implementing its policies and guidance.
- 2.8 As responsibility for these services falls to both the executive and non-executive parts of the Council, approval for the revised policy will also be sought from Licensing Committee.

3.0 **The Regulators' Code**

- 3.1 The Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must** have regard to the Code when developing policies and operational procedures that guide their regulatory activities.
- 3.2 Regulators must equally have regard to the Code when setting standards or giving guidance which will inform the activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.
- 3.3 The Regulators' Code contains six basic principles in contrast to the 2008 Regulators Compliance Code which contained seven, there is however little material difference between the plans or the principles.
- 3.4 The six principals of the Regulators' Code are set out below, with the seven principals of the Compliance Code below that.
- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
 - Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
 - Regulators should base their regulatory activities on risk
 - Regulators should share information about compliance and risk
 - Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
 - Regulators should ensure that their approach to their regulatory activities is transparent

The seven principals of the Compliance Code were;

- Economic Progress
- Risk Assessment

- Advice and Guidance
- Inspections and Other Visits
- Information Requirements
- Compliance and Enforcement Actions
- Accountability

3.5 The code contains additional narrative that explains the detail behind these principles and the expectations of the BRDO in relation to compliance by relevant regulators

3.6 The revised draft Regeneration Compliance and Regulatory Policy has been reviewed and revised to reflect the new Regulators Code and is attached at Appendix A for consideration

4.0 **Revised Regeneration Compliance and Regulatory Policy**

4.1 As a general approach to regulation, the Council has adopted the principles set out in the new Regulators Code for a considerable period. In fact, it could be said the new code actually embodies the approach taken by this authority over the last five plus years.

4.2 Additional detail on the Council's approach is contained in the revised Regeneration, Compliance and Regulatory Policy. However, the key points for each of the six new principles are set out below giving examples from the Food Hygiene service to highlight the necessary requirements.

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
 - Employees now take very practical, hands on approach to encourage compliance. This routinely involves showing business operators and food handlers exactly how to undertake specific tasks. The process of working with the business in this way now ensures a much higher level of compliance than simply telling businesses what to do.
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
 - By reducing unnecessary paperwork and back office systems a much greater emphasis is now placed on increasing the amount of time spent with the businesses so any solutions we jointly put in place are tailored to the businesses needs and operating methods. This enhanced engagement provides for a better exchange of views and ideas and therefore a greater degree of compliance and improved working relationships.
- Regulators should base their regulatory activities on risk
 - The whole of the food hygiene inspection and intervention regime is based on an assessment of the risks posed by individual businesses. Clearly, this

facilitates a direction of resources to those businesses most in need of intervention and support.

- Regulators should share information about compliance and risk.
 - All of the changes put in place as a result of the food hygiene systems thinking intervention have been shared, not only with the other Black Country local authorities but with many others interested in pursuing a similar approach. Additionally, the service has worked, and continues to work with the Food Standards Agency to ensure they, as a government body, understand and support the changes we are making to the service and the way it interacts with local businesses.
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
 - When employees are required to document changes in the way a business operates so it can comply with the law this is written in conjunction with the owner of the business in words they understand. Technical jargon is avoided and solutions that suit the business are agreed to facilitate legal compliance
- Regulators should ensure that their approach to their regulatory activities is transparent
 - A fundamental principle of the new approach is an open and clear dialogue with local businesses. In an independent survey commissioned across the Black Country as part of the Regulation for Growth initiative in the catering sector the levels of satisfaction with regulation in Wolverhampton was markedly higher than the other local authorities. This is considered a direct result of the improved relationship we have with our local business community.

5.0 **Financial Implications**

- 5.1 All costs associated with the delivery of regulatory functions in accordance with the policy can be accommodated within approved Regeneration service revenue budgets.
- 5.2 Councillors should be mindful however of the reduced budgetary provision and associated staffing resource associated with the councils regulatory services. This will inevitably impact upon both the range of issues the services are capable of responding to and the time taken to initiate a response.

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6.0 Legal Implications

- 6.1 No legal proceedings are instigated without the requisite consultation with Legal Services. Prosecutions are authorised by the Assistant Director; Regeneration in consultation with the Chief Legal Officer or nominee who will have regard to the adopted regulatory policy in addition to the Code for Crown Prosecutors and other relevant guidance and legal issues
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7.0 Equal Opportunities Implications

- 7.1 The policy was subject to an equalities screening when last revised. It is considered that no significant alterations to the aims of the policy, that would change the anticipated impacts, have been made. The revised policy still aims to ensure an appropriate balance between levels of compliance and economic impact on local businesses and individuals without jeopardising public wellbeing, health and safety. For this reason, it was not necessary to revise the equalities analysis at this time.
- 7.2 The policy aims to be proportionate, transparent consistent and risk based. It aims to remove or reduce any inequalities to acceptable levels and therefore is anticipated to have a positive impact on equalities.
- 7.3 All formal enforcement decisions are made in with regard to the requirements of the Code for Crown Prosecutors which focus on the admissibility of evidence and the public interest of bringing proceedings. Any adverse impacts on equality will be identified and dealt with at this stage.
- 7.4 The policy seeks to target long term non-compliance and provide compliance assistance where required. Both demands are often associated with the more deprived areas of the city. The policy therefore addresses the higher levels of risk these issues expose consumers from these areas to.

8.0 Environmental Implications

- 8.1 A significant proportion of the activities and functions undertaken by Regeneration are intended to protect and enhance Wolverhampton's natural, commercial and built environments.
- 8.2 Proportionate, appropriate and focussed regulation can have significant positive impacts on the environmental amenity of buildings, land and entire neighbourhoods.

9.0 Corporate landlord implications

- 9.1 The report has no corporate landlord implications.

10.0 Schedule of background papers

- 10.1 None.