

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Operational Services Cabinet Committee

Date: 24 March 2021

Reporting officer: Mandy Cartwright, Senior EHO, Corporate Health and Safety Advisor

Subject: Health and Safety, and Covid 19, Enforcement and Prosecution Policies

Purpose and summary of report:

To present Members with the updated Health and Safety Enforcement and Prosecution Policy, and the new Covid 19 Enforcement and Prosecution Policy.

Recommendations:

1. That Members consider the updated Health and Safety Enforcement and Prosecution Policy, and the new Covid 19 Enforcement and Prosecution Policy, and recommend their approval.
2. That, following recommendation from the Cabinet Committee, the Portfolio Holder for Operational Services approves the final policies without further need to report back to this Committee.

1. Background

- 1.1 The Chartered Institute of Environmental Health (CIEH) have working groups set up across the country for specialists in Housing, Pollution, Food, and Health and Safety.
- 1.2 Members of the CIEH Kent and Medway Health and Safety Group include representatives from each Kent local authority who all specialise in the field of Health and Safety Enforcement.
- 1.3 In 2010, the Health and Safety Group undertook a mini-project to develop a Kent-wide Health and Safety Enforcement Policy that could be adopted by all local authorities across the county.
- 1.4 The Kent-wide enforcement policy came about as a result of the Kent wide joint warranting project whereby officers were warranted to work within all local authorities across Kent and Medway.
- 1.5 By developing a common document, we were able to ensure that officers were applying a consistent approach to Health and Safety Enforcement across the county and in accordance with best practice and guidance, such as the

Regulators' Code, which the local authority must have regard to when developing policies and operational procedures that guide their regulatory activities.

- 1.6 The purpose of this is so that we can demonstrate that any enforcement action taken is fair, firm and effective.
- 1.7 The group updated the Kent-wide enforcement policy in 2018.
- 1.8 It is felt that this is an opportune moment to update our Enforcement and Prosecution Policy to the newer version, which is attached as appendix 2.

2. Covid 19 Enforcement Policy

- 2.1 In March 2020 the UK government declared a national pandemic in relation to COVID 19, and introduced a raft of emergency legislation in order to prevent the spread of the virus.
- 2.2 This legislation was made under powers contained within the Public Health (Control of Disease) Act 1984. This resulted in the Coronavirus Act 2020 along with various Regulations made under the Act.
- 2.3 Responsibility for enforcing these regulations has been shared across Local Authorities, both upper and lower tier, through Environmental Health Staff and Trading Standards Officers, alongside the Police.
- 2.4 It was therefore decided that an equivalent Enforcement Policy should be drawn up in relation to COVID 19 enforcement action for transparency and consistency.
- 2.5 The Covid 19 Enforcement and Prosecution Policy is attached as Appendix 3.

3. Going Forward

- 3.1 Both policies will be available to businesses through the council website.

4. BACKGROUND PAPERS

None

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

Appendices:

Appendix 1 – Implications

Appendix 2 – Health and Safety Enforcement and Prosecution Policy

Appendix 3 – Covid 19 Enforcement and Prosecution Policy

IMPLICATIONS	APPENDIX 1
Legal	Under the Legislative and Regulatory Reform Act 2006 we are required to reduce the burden on business by undertaking enforcement following the Regulators Code in order to ensure that we are firm, fair and transparent with regards any enforcement undertaken.
Finance and Value for Money	There are no financial implications with regards these Policies as procedures are already in place with regards payment of FPN's and any prosecution work undertaken.
Risk Assessment	Failure to have Policies in place could lead us open to action by the Health and Safety Executive or claims from business that they have been treated unfairly.
Data Protection Impact Assessment	<p><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p>a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner's Office website via the above links.</p> <p>b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? not applicable</p> <p>c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. not applicable</p>
Equality Impact Assessment	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. Yes, by ensuring consistency</p> <p><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p>
Corporate Plan	<p>#1 People: a proud community; where residents can call a safe, clean and attractive borough their home.</p> <p>#3 Progress: an entrepreneurial authority; commercial in outlook and committed to continuous service improvement, underpinned by a skilled workforce and strong governance environment.</p>
Climate Change	no implications
Crime and Disorder	no implications

Digital and website implications	Both Policies will be available via the website
Safeguarding children and vulnerable adults	no implications