



Ryedale District Council

REPORT TO: Community Services and Licensing Committee

DATE: 31 January 2008

REPORTING OFFICER: S.Richmond, Environmental Health Manager

SUBJECT: Statutory Code of Practice for Regulators

WARDS AFFECTED: All

1.0 PURPOSE OF REPORT

To advise members of the Statutory Code of Practice for Regulators and its implication for local authorities regulatory services. The Environmental Health Service has a number of enforcement policies that require amending to encompass the requirements of the new Statutory Code of Practice. By delegating this function to the Environmental Health Manager there will be no need to bring these to this Committee for individual approval.

2.0 RECOMMENDATION

The Environmental Health Manager is delegated to amend all Environmental Health Enforcement Policies and Code of Practice to incorporate the requirements of the Statutory Code of Practice for Regulators.

3.0 REASONS SUPPORTING DECISION

The Statutory Code of Practice is one of a number of initiatives by the Government in pursuing its programme of better regulation. This Code of Practice will become a statutory requirement therefore its requirements need incorporating within the Services Enforcement Policies and Code of Practice.

4.0 BACKGROUND

4.1 The Enforcement Concordat was introduced in 1998 and sets out principles of good enforcement policy, comprising: standard setting; openness; helpfulness; well publicised effective and timely complaints

procedures; proportionality and consistency. The Enforcement Concordat is a voluntary code and although it has been adopted by 96% of all central and local government bodies (including Ryedale) with enforcement functions it was considered in the better regulation review that its implementation was patchy and inconsistent and that it did not place sufficient weight on risk based enforcement

- 4.2 The Hampton Report published in 2005, advised that although there was much that was good with the existing enforcement regimes, the lack of comprehensive risk assessment has in some cases created over inspection and led to too many, often overlapping forms and data requirement and too little emphasis was being given to providing advice in order to secure compliance. Hampton recommended a new approach to regulation, with the emphasis on “securing compliance” rather than routinely carrying out inspections. The need for risk-based regulation was stressed so that the burden of enforcement falls most on the highest risk businesses with records of compliance taken into account in assessing risk.

5.0 INTRODUCTION

The report outlines the requirements of the Statutory Code of Practice for Regulators.

6.0 POLICY CONTEXT

The need for complying with the Statutory Code of Practice for Regulators and risk based approach to inspection should be seen in relation to the Councils Aim of having efficient and effective high quality services accessible to everyone in a way that suits them.

7.0 REPORT

- 7.1 Section 21 of the Legislative and Regulatory Reform Act 2006 (“the Act”) places a duty on regulators to have regard to five Principles of Good Regulation in the exercise of regulatory functions. These Principles are that regulatory functions should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. Section 22 of the Act provides the power for a Minister to issue a code of practice relating to the exercise of regulatory functions. This power is being used to issue the Statutory Regulators’ Compliance Code. The code will apply to all Regulators, whose functions are specified by the Legislative and Regulatory reform (Regulatory Functions) Order 2007, including national regulators that were included in the Hampton Review as well as some others. The code will apply to local authority enforcement of trading standards, environmental health and licensing. Any regulator whose functions are specified by order under the Act **must have regard** to the Code. The Code supersedes the 1998 Enforcement Concordat.

- 7.2 The Regulators' Compliance Code is a central part of the Government's better regulation agenda and is based on the recommendations in the Hampton Report. Its purpose is to promote efficient and effective approaches to regulatory inspection and enforcement, which improves regulatory outcomes without imposing unnecessary burdens.
- 7.3 The Code stresses the need for regulators, in carrying out their regulatory activities, to adopt a constructive and preventative approach towards ensuring compliance by:
- o helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and
 - o responding proportionately to regulatory breaches.

The Code does not detract from regulators' responsibility to deliver the desired outcomes nor relieve regulated entities of their responsibility to comply with their obligations under the law.

- 7.4 The specific obligations of the Code are available in Annex A. It should be emphasised that the Environmental Health Service already comply with many of the new requirements. The service has a general Code of Practice on enforcement together with a number of service specific enforcement strategies. The service already provides advice to businesses, has service standards and had policies of risk based inspections, focusing on those businesses known to present the highest risk. Existing enforcement policies are based on the original enforcement concordat but now require amendment to incorporate the requirements of the new Code, which comes into force on 6 April 2008.

8.0 FINANCIAL IMPLICATIONS

There are no direct financial implications in relation to the requirement to amend the services Code of Practice and enforcement policies.

9.0 LEGAL IMPLICATIONS

The Regulators' Compliance Code imposes a duty on a regulator named under the Order to "have regard to" the Code **means** that the regulator must take into account the Code's provisions and give them due weight in developing their policies or principles or in setting standards or giving guidance

10.0 ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications from the review.

11.0 RISK ASSESSMENT

See 9.0 Legal Implications

12.0 CONCLUSION

The Regulators' Compliance Code is a central part of the Government's better regulation agenda. Its aim is to embed a risk-based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators it applies to. The Environmental Health Service already incorporate such approaches in their approach to enforcement but will need to amend the general enforcement code of practice and specific enforcement policies to embed all the requirements of the new Code.

Background Papers:

Hampton.P. *Reducing administrative burdens: effective inspection and enforcement*. HM Treasury. 2005

Regulators' Compliance Code – Statutory Code of Practice for Regulators. Department for Business Enterprise and Regulatory Reform. 17 december 2007.

The Legislative and Regulatory Reform Code of Practice (Appointed Day) Order 2007.

Legislative and Regulatory Reform (Regulatory Functions) Order 2007.

OFFICER CONTACT:

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