

Report of	Meeting	Date
Corporate Director (Neighbourhoods) (Introduced by the Executive Member (Neighbourhoods))	Executive Cabinet	28 May 2009

REGULATORY ENFORCEMENT AND SANCTIONS ACT 2008

PURPOSE OF REPORT

- To advise Members of the Regulatory Enforcement and Sanctions Act 2008 and its implications for enforcement work undertaken by the Council.

RECOMMENDATION(S)

- It is recommended that Executive Cabinet note the report.

SUMMARY

- The Regulatory Enforcement and Sanctions Act 2008 (RES Act) is a new piece of legislation which sets a framework for enforcement functions within local authorities. The Act formalises the recommendations made in the Hampton Review which highlighted the need for a risk based approach with transparent, consistent and proportionate enforcement by local authorities when dealing with business.
- Within the new legal framework there are mechanisms to ensure local authorities take enforcement action appropriately and these are administered by a new agency the Local Better Regulation Office (LBRO) which reports directly to the Secretary of State for Business Enterprise and Regulatory Reform (BERR). BERR have required each local authority to identify a Key Point of Contact, through whom communication between BERR and LBRO can be conducted. The Service Manager – Environment has been nominated as Chorley Councils Key Point of Contact.
- The RES Act has created a Primary Authority scheme whereby a business which has operations in 2 or more local authority areas can request that a single local authority acts on its behalf for specified regulatory enforcement matters such as food safety, health and safety at work and environmental enforcement activity. This effectively means that any authority wishing to pursue enforcement action against a business within a Primary Authority arrangement has to defer to the Primary Authority before taking action.
- The RES Act further requires Local Authorities to undertake a review of how it applies legislation as well as any local bye laws and Acts of Parliament to ensure it does not prejudice any business within the European Community wishing to trade in the locality. This review must be completed by December 2009 and will require Chorley Council to



have established electronic access to any licences, permits or permissions processes that a business would need to have before trading in the Chorley area.

REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

7. To make Members aware of the implications of this new legislation and the potential impact on local business and the Councils enforcement relationship with business.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

8. There are no alternative recommendations.

CORPORATE PRIORITIES

9. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region	√	Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	√
Involving people in their communities		Ensure Chorley Borough Council is a performing organization	√

BACKGROUND

10. The Regulatory Enforcement and Sanctions Act (RES Act) 2008 is in four distinct parts:

11. Part 1: Local Better Regulation Office (LBRO)

Firstly, it gives the Local Better Regulation Office (LBRO) statutory powers. Originally a limited company, the LBRO promotes more consistency across local authorities in the way they enforce regulations and work with central government.

Part 2: Coordination of regulatory enforcement

The second part of the Act establishes a Primary Authority Principle, overseen by LBRO, which delivers the Government's commitment to place the current Home and Lead Authority Principles on a statutory footing.

Part 3: Civil sanctions

Part three of the Act also provides a framework of administrative sanctions that will allow regulators to tackle non-compliance in ways that are: transparent, flexible and proportionate to the offence.

Part 4: Regulatory burdens

Finally, the Act places a duty on specified regulators to review the burdens they impose on business and reduce any that are unnecessary and unjustifiable and report on their progress annually.

12. Parts 1, 3 and 4 commence on 1 October 2008 with Part 3 commencing 1 April 2009.

ENFORCEMENT PRINCIPLES

13. Chorley Council voluntarily signed up to the Governments Enforcement Concordat in 2001 and has been observing the Hampton enforcement principles through our publication of an enforcement policy and distribution of enforcement information to businesses when formal action is being considered by any of our regulatory services. The Hampton enforcement principles now enshrined in legislation will continue to be applied by officers when undertaking regulatory work with business.
14. The introduction of the RES Act 2008 now supersedes the voluntary Enforcement Concordat and places a legal duty on local authorities to ensure regulatory services such as food safety, licensing, health and safety enforcement are delivered using a risk based approach and that any action is proportionate, consistent and transparent.
15. There will be very little change in the Councils approach since we have been delivering regulatory services to the new legal standard for several years and have well established processes to ensure our regulatory service delivery to business is risk based, consistent and proportionate.

KEY POINT OF CONTACT

16. The Department of Business, Enterprise and Regulatory Reform (BERR) have required each local authority to nominate a Key Point of Contact to act as the initial point of communication with themselves, the Local Better Regulation Office (LBRO) and the local authority. In the case of Chorley Council the Service Manager – Environment within the Neighbourhoods Directorate has been nominated since the majority of regulatory services are delivered through teams within the Neighbourhoods Directorate. Chorleys Key Point of Contact will take responsibility for ensuring any guidance, advice and direction from BERR is disseminated to the appropriate enforcement officers and that any information or returns required by BERR are collated and provided. In some cases this will cut a cross a number of Directorates dependant on the issue.

PRIMARY AUTHORITY

17. The RES 2008 sets up a new regulatory arrangement whereby businesses that operate across two or more local authority boundaries can seek a Primary Authority relationship. This effectively means that the Primary Authority acts as the sole contact point for any other local authority regulatory services to which the arrangement applies.
18. At this time it is not envisaged that Chorley will be approached to become a Primary Authority, however we will inevitably be required to undertake the additional administrative processes that apply as an enforcing authority, should we be contemplating enforcement action against a business with a Primary Authority arrangement. It is unclear what additional resource this might involve but Members should be aware that in time, as and when the number of Primary Authority arrangements increase, then the resource implications will also increase.

REGULATORY REVIEW AND BUSINESS ACCESS

19. The RES 2008 places a duty on national and local government to review all regulatory legislation and determine its impact on business throughout the European Union. The primary purpose of this is to ensure compliance with the European Services Directive which requires Member States to remove any prejudicial barriers to businesses that operate anywhere in the European Union.

20. Work on this review has commenced with colleagues in the Corporate Governance Directorate and it is anticipated that we will meet the review deadline of December 2009.

SINGLE POINT OF CONTACT

21. The RES Act 2008 places a duty on BERR to provide a single point of contact for EU business wishing to operate in the UK. This means that each local authority will need to provide an electronic means for business to make applications for any regulatory or licensing provisions that apply to a particular local authority area which would then be accessed through a single electronic contact point within the Business Enterprise and Regulatory Reform Department at national level. The Councils Key Contact (Service Manager – Environment) is currently establishing the implications for Chorley Council and will be liaising closely with the Corporate Director (Information and Communications Technology) to ensure we meet our obligations in this regard.

IMPLICATIONS OF REPORT

22. This report has implications in the following areas and the relevant Corporate Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal		No significant implications in this area	√

ISHBEL MURRAY
CORPORATE DIRECTOR (NEIGHBOURHOODS)

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Simon Clark	5732	5 May 2009	***