

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO HEALTH & HOUSING COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 20 OCTOBER 2016
title: PEST CONTROL ENFORCEMENT POLICY
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1 PURPOSE

1.1 The Pest Control Enforcement Policy details how the Council will regulate and enforce standards with regard to the pest control service.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – The report generally relates to the Council's ambitions to make people lives safer and healthier.
- Corporate Priorities – To engage with our community to ensure we deliver services to meet customer needs and expectations.
- Other Considerations – None.

2 BACKGROUND

2.1 The Council does not currently have an enforcement policy specifically for pest control work. However there is an overarching Council Enforcement Policy to which this proposal will belong. There is a statutory duty for the Council within the legislation relating to pest control services.

2.2 It is important for local authorities to have an Pest Control Policy to ensure consistency and approach among Council officers and for members of the public to know what to expect from the service. It aids clarity should the Council need to take legal proceedings or enforcement action is appealed against.

2.3 The policy is set out to show we are fair to all parties and give help and advice to achieve our aims but we must be firm to take enforcement action where necessary.

3 ISSUES

3.1 This report details the specifications on the process and procedure of enabling the Council to be the best provider for pest control services.

3.2 The Council has provided an efficient and well used pest control service for many years. There has been little need for the Council to enforce under the Prevention of Damage by Pests Act 1949 due to the availability of the service.

3.3 There is not a statutory duty to provide a pest control service. The Council however does have certain obligations covered by the following legislation:

- Prevention of Damage by Pests Act 1949 and the Public Health Act 1936. This legislation requires the Council to enforce duties of owners and occupiers to keep their land free from pests. The legislation does not require the Council to offer a pest control service.

- A discretionary pest control service can be provided under the Local Government Act 2000, which gives local authorities powers to do anything which they consider is likely to achieve the promotion and improvement of an economic, social and environmental wellbeing of their area (power of wellbeing).
 - A charge for providing a pest control service can be made under the Local Government Act 2003, which includes a general power for local authorities to charge for discretionary services.
 - The income from the pest control service is seasonal and very much dependent on the prevalent weather conditions.
- 3.4 Standardised documentation including procedure notes, will be introduced for pest control staff. The pest control will therefore implement standardisation of documentation. There will also be standardisation of charging, and the ability for people to book the pest control service when paying for the service that they require.
- 3.5 Local Authorities (Councils) are not legally required to provide a pest control service, however under the Prevention of Damage by Pests Act 1949 they are required to take such steps as may be necessary to secure as far as practicable that their district is kept free from rats and mice. They must, in particular, keep the Local Authorities own land and other land that the local authority occupies free from rats and mice.
- 3.6 They are also required to ensure that the owners and occupiers comply with all similar duties under the Act and in addition to tell the Local Authority in writing if it comes to their knowledge that rats and mice are living on or resorting to their land in substantial numbers. NB: This does not apply to agricultural land.
- 3.7 Ribble Valley Borough Council is charging for our pest control service.
- 3.8 The Council does not have to undertake pest control itself and if chooses to do so there is no requirement to offer this service free of charge.
- 3.9 Other powers and duties regarding public health pests are included in other environmental health legislation such as Food Safety Act, Public Health Act and the Housing Act.
- 3.10 It is the responsibility of every business and individual to comply with the law and it is recognised that most want to do so.
- 3.11 The Pest Control Enforcement Policy helps to promote efficient and effective approaches to inspections and enforcement which will improve compliance with regulatory requirements without imposing unnecessary burdens.
- 3.12 The purpose of this Policy is to explain fully how the pest control service will fulfil its role.
- 3.13 At this time we only treat pests on commercial or industrial premises for business and organisations that have a contract with us. This as an area we wish to advertise more.
- 3.14 The Council offers a service with fully qualified Pest Control Officers providing a first stop for domestic and business premises throughout the borough on request.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:

- Resources – There are no particular resource implication.
- Technical, Environmental and Legal – There are no particular technical, environmental or legal implications.
- Political – The report represents the borough council taking appropriate action in providing a consistent service and to ensure that a service that is well used and an important front line service has correct policy and procedures behind it.
- Reputation – The report represents the borough council taking appropriate action in providing a consistent service and to ensure that a service that is well used and an important front line service has correct policy and procedures behind it.
- Equality & Diversity – None identified.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Adopt the Pest Control Enforcement Policy.

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BACKGROUND PAPERS

None.

For further information please ask for Heather Coar, extension 4466.

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PEST CONTROL ENFORCEMENT POLICY

1 INTRODUCTION

1.1 Scope and Explanation of the Policy

1.1.1 The Environmental Health Department undertakes pest control work in the following three service areas:

- i. Pest control treatments for rats, mice, wasps and insects at the request of residents and businesses within Ribble Valley Borough Council.
- ii. Provision of specialist advice to residents and businesses within Ribble Valley Borough Council.
- iii. Keeping land within Ribble Valley Borough Council's district free from rats and mice in respect of duties required under the Prevention of Damage by Pests Act 1949.

1.1.2 Service area iii is an enforcement role, areas i and ii comprise a service that is offered to residents and business, but involves no enforcement – these service areas are therefore not included in this Enforcement Policy.

1.2 Associated Documents to be Considered

1.2.1 Other associated documents that should be read in conjunction with this policy are:

- Regulation of Investigatory Powers Act 2000.
- Written departmental pest control procedures.

1.3 Statement of Objectives

1.3.1 Ribble Valley Borough Council has a number of unique demographic, geographic and social attributes that impact upon the way that the pest control service is delivered locally. This policy is designed to ensure that the broad objectives of the enforcement concordat underpin the detailed workings of the Pest Control Section in its day to day contact with all service users.

1.3.2 The Council's Pest Control Policy is to work towards an achievable environmental goal, which would mean that people living or working in Ribble Valley Borough Council largely enjoy land and property free from infestation of vermin.

1.3.3 This Policy is implicit in the day-to-day work of many Council departments. The service area mentioned at 1.1 above contributes directly to its achievement, through the enforcement of statutory provisions.

1.3.4 People whose personal, leisure or business related activities persistently have the effect of diminishing the achievement of this goal, and where a statutory duty on this Council exists, will be dealt with according to the guidance contained in this Policy.

1.4 Good Enforcement Practice

1.4.1 The Council has signed up to the voluntary code, known as the Enforcement Concordat which is a nationally produced standard in promoting best practice in enforcement. It is committed to the principles of the code and to work with all people to comply with the law and to take action against those that flout

the law and put others at risk. The principles of the concordat have formed the basis of the Corporate Enforcement Policy.

1.5 Shared Enforcement

- 1.5.1 Some aspects of the pest control work that the Environmental Health Service undertakes interacts with other Council services and outside agencies that, although do not carry out enforcement work, do provide services that can provide an alternative form of resolution, or can complement or support our enforcement action.
- 1.5.2 In determining the most appropriate form of enforcement action, officers must have regard to any on-going or potential action of other Council services and agencies and the suitability and effect of our action, as opposed to, or combined with, their action in addressing the issues.
- 1.5.3 Where issues are identified by officers from the Environmental Health Service that are the enforcement responsibility of another Council service or other agency, the person reporting the matter(s) will be referred to the relevant agency or service. The officer should then refer the matter to the relevant agency or service.
- 1.5.4 Where enforcement action is being taken by another Council or service or outside agency, officers from Environmental Health will provide all assistance that is reasonably requested, including the production of witness statements, collection and sharing of evidence etc.

1.6 Commitment to the Policy

- 1.6.1 The Council is committed to ensuring that all authorised officers carrying out enforcement work are trained and fully acquainted with the requirements of this Policy. All authorised officers must abide by this Policy when making decisions on enforcement. Any departure from this Policy will be exceptional, documented, justified and approved by the Line Manager unless the delaying in decision making would result in a significant risk to the public.

2 AUTHORISATION

- 2.1 Authorisation of officers is of paramount importance in the effective delivery of the pest control function of Ribble Valley Borough Council. The 'proper officer' of this authority who has the delegated responsibility or authorising enforcement officers is the Head of Environmental Health Services in consultation with the Chief Executive.
- 2.2 All authorisations of enforcement officers must be in writing, specifying the limits of authorisation and must form part of the identification cards shown on visits.
- 2.3 **Competencies**
 - 2.3.1 The Council's Policy is to require a competency in pest control for officers to carry out pest control work.

3 ENFORCEMENT APPROACH

- 3.1 This Council recognises and affirms the importance of achieving and maintaining consistency in their approach to making all decision, which concern pest control enforcement action, including prosecution. To achieve and maintain consistency, it is important that the Enforcement Concordat is always considered and followed where appropriate.

- 3.2 This authority, in line with the Enforcement Concordat, will seek to ensure that enforcement decisions are always consistent, balanced, and fair and relate to common standards that ensure that occupiers and others affected are adequately protected.
- 3.3 Whenever an enforcement decision needs to be made, fair regard shall be made to the normal hours of trading of any business premises under investigation. Whenever necessary, inspections and investigations will be carried out in the early morning, in the evening and at weekends as appropriate.
- 3.4 Enforcement investigations may involve obtaining a Warrant of Entry from the Court in accordance with provisions contained in relevant legislation.
- 3.5 Prior notification of an impending enforcement inspection will not be made where such notification would defeat the purpose for which the inspection was being undertaken.
- 3.6 Whenever enforcement investigations require the attendance of a translator, interpreter, signor or other person to assist with written or verbal communications with the person(s) under investigation, such reasonable provision will be made.
- 3.7 The Environmental Health Service will base all pest control enforcement decisions on:
- the effect of the legislative breach upon the persons affected, and/or the damage being caused or likely to be caused to the land;
 - the risk to the health of persons that may be affected;
 - the future consequences of failing to address the breach at the present time;
 - the consequences of our action on the person(s) responsible for rectification, the owner (if not one and the same) occupiers(s) and future use of the land/premises/property; and
 - any concurrent or potential action by other services and agencies and the suitability and effect of our action as opposed to or combined with theirs in addressing the issues.
- 3.8 In making an enforcement decision, we will consider a number of factors. These include the perpetrator's past history, where a business is involved – confidence in management, the consequences of non-compliance; effect of the defect on the person(s) affected and the likely effectiveness and consequences of the various enforcement options.
- 3.9 Where there are failures to comply with the law, this authority has a number of informal and formal approaches to secure compliance:
- To take informal action.
 - To use statutory notices.
 - To prosecute.
 - To carry out work in default.
- 3.10 Any of the above options can also be undertaken alongside appropriate action by other Council services or outside agencies.

4 INFORMAL APPROACH

- 4.1 Informal action to secure compliance with legislation can be a variety of means including giving advice, verbal warnings, sending informal letters etc. This advice will be put clearly and simply.

4.2 These methods of informal action will continue to be used by authorised officers as long as they believe that these methods will result in compliance within reasonable timescales. These methods can be used alongside other Council services or outside agencies action where appropriate.

4.3 Informal action may be used in the following circumstances:

- The owner's/manager's/responsible person's past history shows that it can be reasonably expected that informal action will achieve compliance.
- Confidence in the owner's/manager's/responsible person's management is high.
- Where formal action may result in undesirable or unproductive consequences for the persons affected.

4.4 When an informal approach is adopted to secure compliance with pest control legislation, it is important that any letter issued explains:

- the remedial action needed to achieve compliance, why it is necessary and within what timescale;
- offers the opportunity for discussion or for the owner to make representations, including contact point(s) and name(s);
- provides the details of any other Council services or outside agencies that may be able to provide assistance or related services to the owner/occupier/manager/responsible person.

5 FORMAL APPROACH

5.1 Notices

5.1.1 The use of a formal notice must be considered when there is a significant infestation of vermin and the action is proportional to:

- the effect of the legislative breach upon the persons affected, and/or the damage being cause or likely to be caused to the land;
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- the risk to the health of persons that may be affected;
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- the future consequences of failing to address the breach at the present time;
- the consequences of our action on the person(s) responsible for rectification, the owner (if not one and the same) occupier(s) and future use of the land/premises/property; and
- any concurrent or potential action by other services and agencies and the suitability and effect of our action as opposed to or combined with theirs in addressing the issues.

5.1.2 A formal notice will be served:

- when an informal approach has been tried but has not been successful or the officer believes an informal approach would not succeed;

- in the case of a new business or new requirement, the officer assesses that the owner/occupier/manager is unwilling or unlikely to comply; and
 - when a prosecution is to be taken, but effect action is also needed as quickly as possible to remedy conditions through work in default;
- 5.1.3 Only the authorised officer who has witnessed the contravention and is satisfied that it constitutes an infestation of vermin must sign the notice.
- 5.1.4 Any notice that is served must contain all the content requirements detailed in the legislation and in any case must state:
- the legislation, including regulation, section, subsection or paragraph that relates to the infestation; and
 - the timescale and the mechanisms for appeal.
- 5.1.5 The person on whom the notice is served must be contacted where possible at the time of the start date on the notice, before the completion date for the works expire to remind them of the timescale requirements.
- 5.1.6 A revisit will be made to a premise as soon as practicable after expiry of a Notice.
- 5.1.7 Where appropriate, the officer will inform to all interested bodies or agencies, including residents; managers; freeholders; leaseholders and relevant mortgagees of the action taken and its outcomes.

6. FOLLOW UP VISITS

- 6.1 This authority will undertake follow up visits to premises to ensure that progress has been made to rectify identified problems. The criteria to decide whether a follow up visit is necessary will be the likelihood that further formal action will be taken as a direct result of the visit. Where practicable, the officer who undertook the original visit or inspection should carry out the revisit.

7. PROSECUTION

- 7.1 The authority recognises that most property owners/manager/persons responsible with to comply with the law and prosecution will be restricted to those who flout the law. The following circumstances are likely to warrant prosecution:
- The alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to the health or safety of persons or others, having been given a reasonable opportunity to comply with the requirements of an officer.
 - The offence involves a failure to comply in full or in part with the requirements of a statutory notice.
 - There is a history of similar offences.
- 7.2 The officer must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person/company. Reference should be made to the Code of Crown Prosecutors issued by the Crown Prosecution Service who gives guidance.

- 7.3 The criteria contained in the relevant Code of Practice must be followed when decision are being taken on whether to prosecute. The factors to be considered are:
- the previous history of the party concerned;
 - the willingness of the party to prevent a recurrence of the problem;
 - the public benefit of a prosecution and the importance of the case; and
 - any explanation offered by the company or suspected offender.

8 STATUTORY NOTIFICATIONS AND REFERRAL TO OTHER REGULATORS

- 8.1 From time to time other agencies may require the statutory notification of enforcement action within a local authority's area. An example is notification to the County Agriculture Committee when a vermin infestation has been identified on agricultural land and the Council serve an Enforcement Notice.

9 REVIEW

- 9.1 This Policy will be reviewed on an annual basis and in light of any changes in legislation, Codes of Practice or centrally issued guidance.