

**SUBJECT: FOOD LAW ENFORCEMENT POLICY - MONMOUTHSHIRE
ALTERNATIVE TO PROSECUTION POLICY (MAPP)**

MEETING: INDIVIDUAL CABINET MEMBERS DECISION

DATE: 29th MARCH 2017

DIVISION/WARDS AFFECTED: ALL

1. **PURPOSE:** To consider amendments to the authority's existing Food Law Enforcement Policy
2. **RECOMMENDATIONS:** To approve the addition of an alternative method of enforcement to the Authority's Food Law Enforcement Policy as outlined in Appendix one.
3. **KEY ISSUES:**
 - 3.1 Monmouthshire County Council, like all Councils in Wales, has statutory responsibilities as a *Food Authority* to enforce relevant food law in its area. In discharging those duties the Authority is required to have regard to Codes of Practice and other statutory guidance issued.
 - 3.2 The attached *Food Law Enforcement Policy* has been drafted in accordance with the Framework Agreement. It has been compiled in collaboration with the All Wales Food Expert Panel and in accordance with the relevant Food Law Code of Practice. It details the authority's arrangements for ensuring compliance with food law. The Policy covers all areas of food law that Monmouthshire has a duty to enforce and includes the criteria for the use of all the enforcement options that are available. The additional part to cover this proposal can be found in **RED** in Appendix one.
 - 3.3 The government document Regulatory Futures Review January 2017 states we should use the range of levers available to us in addition to our statutory powers. The outcomes are (i) to reduce harm and ensure quality and focus as far as possible; (ii) to enable greater flexibility in the Authority's role as an enforcement body; (iii) to take into account the changing regulatory landscape; and (iv) to promote a more outcome based intervention strategy. To achieve these outcomes it is proposed to introduce this alternative enforcement model.
 - 3.4 Following a review of our work processes we see an opportunity to move closer to an outcome based approach to regulation though the implementation of the Monmouthshire Alternative to Prosecution Policy (MAPP). This would allow the Environmental Health Section to offer an alternative to prosecution to businesses that have failed and are at the point where a prosecution will be taken under food legislation.
 - 3.5 When a food business is found to be performing very badly in terms of food hygiene compliance, it is sometimes necessary to prosecute the food business operator if conditions are sufficiently poor. The process is very time consuming, stressful and costly for both the department and the business. The outcome will depend on the evidence presented at court and the decision of the court. Recent changes to the sentencing guidelines have resulted in some very high fines, usually into the thousands of pounds for food business operators.

Monmouthshire County Council's Food Safety Team would like to adopt an innovative approach to dealing with such premises. We propose to offer an alternative route for food businesses to get back on track and improve the food hygiene rating and give the business a chance to restore public confidence.

When a business is identified as being liable for prosecution the food business operator may be offered a chance to take up a bespoke package of improvements and training from the food safety team. This will be for a set fee for example £750 for the normal package of improvement which will include:

1. A meeting to decide on the best approach to securing the necessary improvements.
2. Revisits to the food business to monitor and provide advice on improvements.
3. Suitable training for key food safety staff within the business. This may be at the business premises or by arranging places on a suitable course locally. Higher risk premises may require a higher level of training which would have to be arranged separately.
4. When a satisfactory standard has been achieved, helping the business with their application to reappraise the Food Hygiene Rating.

3.6 We will retain the option to prosecute in the worst cases. Although prosecution remains the last 'resort course' of action, it always sends out a useful reminder to all businesses that breaches of the food safety legislation will not be tolerated.

4. REASONS:

4.1 The government document Regulatory Futures Review January 2017 states we should use the range of levers available to supplement our statutory powers to reduce harm and ensure quality and focus as far as possible on outcomes. To enable greater flexibility in the Authority's role as an enforcement body and to take into account the changing regulatory landscape together with promoting a more outcome based model in line with the review, this alternative enforcement model is proposed.

5. RESOURCE IMPLICATIONS:

Possible increase in officer time if this option is offered as opposed to preparing a prosecution file but the benefits are seen as income generation and a more positive outcome based approach in appropriate situations.

6. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING)

A full Future Generations Evaluation has taken place and can be seen attached in Appendix two.

7. CONSULTEES:

SLT
Chairs of Select committees
Head of Legal Services

8. BACKGROUND PAPERS: none

9. **AUTHOR:** Gillian Dicken Principal Environmental Health Officer

10. CONTACT DETAILS:

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