

# Environment and Communities Committee

## Agenda

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**Date:** Thursday, 10th November, 2022  
**Time:** 10.30 am  
**Venue:** Committee Suite 1,2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the top of each report.

It should be noted that Part 1 items of Cheshire East Council decision making meetings are audio recorded and the recordings will be uploaded to the Council's website

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

To note any apologies for absence from Members.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 5 - 8)

To approve as a correct record the minutes of the previous meeting held on 31 October 2022.

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For requests for further information

**Contact:** Helen Davies

**Tel:** 01270 685705

**E-Mail:** [helen.davies@cheshireeast.gov.uk](mailto:helen.davies@cheshireeast.gov.uk)

4. **Public Speaking/Open Session**

In accordance with paragraph 2.24 of the Council's Committee Procedure Rules and Appendix on Public Speaking, set out in the [Constitution](#), a total period of 15 minutes is allocated for members of the public to put questions to the committee on any matter relating to this agenda. Each member of the public will be allowed up to two minutes each to speak, and the Chair will have discretion to vary this where they consider it appropriate.

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting.

5. **Local Development Scheme 2022** (Pages 9 - 24)

To receive an update to the Council's Local Development Scheme (LDS) and the establishment of a Member Reference Group to support the preparation of the Local Plan Update.

6. **Revised Statement of Gambling Principles** (Pages 25 - 80)

To consider the revised Statement of Gambling Principles.

7. **Cheshire East Enforcement Policy Review** (Pages 81 - 108)

To consider the updated Corporate Enforcement Policy.

8. **Regulatory Services Enforcement Policy Review** (Pages 109 - 126)

To consider the updated Service Specific Enforcement Policy for Regulatory Services and Health.

9. **Notice of Motion: Fire Sprinklers** (Pages 127 - 134)

To consider the Notice of Motion proposed at Council on 20 July 2022 in relation to the fitting of sprinklers in buildings in the borough.

10. **Mid Year Review Financial Report** (Pages 135 - 170)

To receive an update on the financial position for 2022/23. To note or approve virements and supplementary estimates as required.

11. **Standing Item: Members Advisory Panel: Cheshire East Cemeteries Strategy Review**

To receive a verbal update from the Chair of the Member Advisory Panel.

12. **Standing Item: Working Group: Household Waste & Recycling Centres**

To receive a verbal update from the Chair of the Working Group.

13. **Work Programme** (Pages 171 - 174)

To consider the Work Programme and determine any required amendments.

**Membership:** Councillors Q Abel, S Akers Smith (Vice-Chair), M Benson, J Bratherton, J Buckley, L Crane, T Dean, A Farrall, L Gilbert, P Groves, C Leach, J Parry and M Warren (Chair)

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Environment and Communities Committee**  
held on Monday, 31st October, 2022 in the Committee Suite 1,2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor M Warren (Chair)  
Councillor S Akers Smith (Vice-Chair)

Councillors M Addison, J Bratherton, J Buckley, L Crane, T Dean, A Farrall,  
L Gilbert, P Groves and C Leach

**OFFICERS IN ATTENDANCE**

Paul Bayley- Director of Environment and Neighbourhood Services  
Helen Davies- Democratic Services Officer  
Jane Gowing- Interim Planning Service Review Lead  
David Malcolm- Head of Planning  
Fiona Seddon- Place Business Manager  
Jayne Traverse- Executive Director of Place

**36 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Quentin Abel,  
Councillor Jonathan Parry and Councillor Mike Benson (Councillor Mary  
Addison was substituting).

**37 DECLARATIONS OF INTEREST**

There were no declarations of interest received.

**38 MINUTES OF PREVIOUS MEETING**

RESOLVED: That the minutes of the meeting 29 September 2022 be  
accepted as a correct and accurate record.

**39 PUBLIC SPEAKING/OPEN SESSION**

There were no members of the public registered who wished to speak.

**40 LOCAL PLANNING AUTHORITY REVIEW AND SERVICE**

Jayne Traverse, Executive Director of Place introduced the report. Jane Gowing, Interim Planning Service Review Lead was in attendance and had assisted in the production of the report.

The Committee was advised that a team of officers had been brought together in January 2022 and had been tasked with reviewing the planning backlog and the systems supporting the planning service. The review was not an inspection, it was a thorough improvement focussed review of the Planning service including best practice and outside services such as Legal, Democratic Services and Statutory Consultees.

The Committee was advised the review had gathered information including published Committee meetings, face to face meetings, over 200 comments from staff including ideas for improvement. Applicants, agents and Member's complaints had been reviewed including the Member Advisory Panel from this Committee.

The Committee was advised that prior to the pandemic, the service was fragile, busy and dealt with complex work. Cheshire East Council is the eighth busiest planning service in the country and processed the most applications in the Northwest.

There were seven themes to the report recommendations:

- 1) Capacity, Workload and Recruitment;
- 2) Culture and Leadership, encouraging innovation;
- 3) Processes and Use of Technology;
- 4) Customer Experience;
- 5) Policy and Governance;
- 6) Members; and
- 7) Managing the Transformation.

The Executive Director of Place advised that one of the major issues in relation to the backlog of applications was due to the aging ICT system and that a more modern system was in the process of being implemented.

Reassurances were given to the Committee that:

- all major applications had been allocated to officers as they were received, but the applications held in the backlog related to minor and household applications;
- the backlog had reduced and more applications were being processed than received;
- the contract to procure Capita to assist with the applications had been extended, to date 1500 had been processed this way with capacity for an additional 500;
- Career graded posts had been appointed to;
- A 2-day fast tracking event resulted in 200 applications being determined; and

- Site visit protocol changes had been implemented using photographs and video evidence to support applications, in line with best practice within other local authorities.

In summary, the Executive Director of Place noted that there was excellent work within the planning service and this included enthusiastic staff who were committed to Cheshire East Council. Next steps were to implement the Modernisation Plan, it was envisaged this would evolve over time and have an officer accountable for each of the actions. The Modernisation Plan would include additional areas to look at in more detail including Section 106, ICT Systems and Enforcement. The Transformation Board would have oversight and drive through the outlined recommendations and this Committee would receive updates on progress..

The Chair welcomed the comprehensive report and how it objectively reviewed the service acknowledging the areas for attention and wide demands placed on the service. The Chair noted that whilst some actions could happen now, some actions could take a couple of years to complete.

The Chair extended the thanks of the Committee to the Executive Director of Place, the Deep Dive Team, Staff within the Planning Service and the Member Advisory Panel chaired by Councillor Tony Dean.

The Committee was given the opportunity to ask questions and noted that:

- Improvements in planning training for Councillors at Borough and Town and Parish Council level should reduce issues to officers; and
- Members raised concerns about the Planning Portal, although acknowledged that this was managed by central government, it was difficult to use and caused frustrations from residents which was reputationally damaging for the Council.

There was some discussion about the enforcement planning function and if the council should be more robust in its approach to enforcement.

The Executive Director of Place advised that the enforcement team worked within legal and statutory parameters and part of that was the need to give time for applicants to apply for retrospective planning permission. One of the roles the council had been unable to recruit to was the Monitoring and Compliance Officer which could strengthen future enforcement work.

Reassurances were given to the Committee that:

- best practice from other authorities (such as Cornwall and Wiltshire) would be proactively sought as well as an effort to formalise networking with other local authorities;
- the work from this report had a communication plan to ensure messages reached the appropriate communities and stakeholders;

- the refresh in joint Member and Officer planning training would seek to address non-material planning considerations being debated during planning committee meetings;
- the new ICT system should speed up planning processes and reduce repeat complaints that were often applicants chasing their applications. ; and
- the enforcement team had showcased a couple of successful prosecutions to help educate residents in what could and couldn't be done through the planning process in turn helping to reduce the workload for officers.

RESOLVED (Unanimously): That:

- a) the findings and recommendations of the Local Planning Authority Review and Service Transformation report be received and noted;
- b) the establishment of a Transformation Board to oversee the Modernisation Plan which is to be chaired by the Executive Director of Place be received and noted;
- c) the range of measures already implemented as part of the review, particularly in relation to reducing the backlog of planning applications be received and noted; and
- d) That a Member / Officer group be established, following the findings of the proposed Section 106 funding Internal Audit, to explore the process of Section 106 planning obligations as part of the Modernisation Plan.

The meeting commenced at 2.30 pm and concluded at 3.21 pm

Councillor M Warren (Chair)



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## **Environment and Communities Committee**

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<b>Date of Meeting:</b>	10 November 2022
<b>Report Title:</b>	Local Development Scheme 2022
<b>Report of:</b>	Jayne Traverse, Executive Director of Place
<b>Report Reference No:</b>	EC/14/22-23
<b>Ward(s) Affected:</b>	All wards

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### **1. Purpose of Report**

- 1.1. This report seeks approval for an update to the Council's Local Development Scheme ("LDS") and the establishment of a Member Reference Group to support the preparation of the Local Plan Update.

### **2. Executive Summary**

- 2.1 The report seeks the approval of an updated LDS to replace the Council's current LDS which covers the period 2020 to 2022. The updated LDS is proposed to cover the period 2022-2027 and sets out the timetable for preparing the Minerals and Waste Plan and Local Plan Update. It also highlights the anticipated adoption of the Site Allocations and Development Policies Document by the end of this calendar year.
- 2.2 The report also recommends that a Local Plan Member Reference Group is established to act as an informal sounding board to support the preparation of the Local Plan Update.

### **3. Recommendations**

- 3.1. To approve and bring into effect the updated Local Development Scheme 2022-2027 provided in Appendix 1.
- 3.2. To establish a Local Plan Member Reference Group to support the preparation of the Local Plan with the Terms of Reference provided in Appendix 2.

### **4. Reasons for Recommendations**

- 4.1. It is a legal requirement for the Council to prepare and maintain a LDS. National planning guidance indicates that the LDS should be regularly

reviewed, kept up to date and made publicly available so that local communities and interested parties can keep track of the Council's progress in preparing its Local Plan.

- 4.2. A Local Plan Member Reference Group will act as an informal sounding board and support the preparation of the Local Plan.

## 5. Other Options Considered

- 5.1. There is no other option for the Council other than to update its LDS. The current LDS runs to 2022. Councils are required to prepare and maintain a LDS under section 15 of the Planning and Compulsory Purchase Act 2004.
- 5.2. The Local Plan could be prepared without a Member Reference Group, however the benefit from having an informal Member sounding board to support the development of the Plan would not be achieved.

## 6. Background

- 6.1. Appended to this report is an updated LDS setting out the proposed programme, between 2022 and 2027, for the preparation of documents intended to form part of the Council's Local Plan<sup>1</sup>. It would replace the current LDS which covers the period 2020-22.
- 6.2. LDSs enable local communities, businesses, developers, service and infrastructure providers, alongside other interested parties, to find out what Local Plan documents are proposed and the timetable for their preparation.
- 6.3. The Council must also report progress against the LDS, which is done annually through the Authority Monitoring Report.
- 6.4. The proposed LDS:
- identifies the final stages towards adopting the Site Allocations and Development Policies Document;
  - reflects the change in approach towards the preparation of, and timetable for, the Minerals and Waste Plan;
  - includes a timetable for the Local Plan Update; and
  - removes the Crewe Hub Area Action Plan from the schedule of future Local Plan documents.

### Site Allocations and Development Policies Document

- 6.5. The Site Allocations and Development Policies Document forms the second part of the Council's Local Plan 2010-30. It contains non-strategic policies to guide planning decisions and allocate additional sites for development to assist in meeting the overall development requirements set out in the Local Plan Strategy. It is at an advanced stage of preparation. The receipt of the

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<sup>1</sup> The Cheshire East Local Plan does not cover the portion of the borough located within the Peak District National Park. The National Park is subject to the Park Authority's planning policies.

Inspector's Report following the public examination of the Plan is expected shortly. The Council received the Inspector's Report on 17 October 2022, enabling it to proceed and adopt the Plan with Main Modifications. This will be considered by Full Council on 14 December.

#### Minerals and Waste Plan

- 6.6.** The proposed LDS 2022-2027 reflects the revised approach towards the preparation of the Minerals and Waste Plan and its indicative timetable, considered at the Committee's meeting on 1 July 2022.

#### Local Plan Update

- 6.7.** The Committee considered the review of the Local Plan Strategy at its meeting on 1 July 2022 and decided that an update to it was necessary. It was also agreed that a further report be brought back to a subsequent meeting with a revised LDS setting out the timetable for the Update.
- 6.8.** It was highlighted that the Update would be extensive and include the setting of development requirements beyond 2030 necessitating changes to a number of key strategic policies. Given that national planning policy requires strategic policies within local plans to look ahead over a minimum 15-year period from adoption, it is expected that the new Plan period will extend into the 2040s.
- 6.9.** The Local Plan Update will be informed by a range of reports and studies. Recognising the important role that planning policy has in the achievement of sustainable development, the preparation of the Plan will need to closely involve teams across the Council and outside organisations. The Plan will also be developed through several rounds of wider public consultation. Revisions to local planning policy will be of interest to all elected members who will be kept informed on the Plan's progress and advised of opportunities to input into the Plan's development.
- 6.10.** The draft LDS identifies a five-year programme to prepare and adopt the Local Plan Update. The programme includes three rounds of public consultation – Issues and Options (4<sup>th</sup> quarter 2023), First Draft (4<sup>th</sup> quarter 2024) and Publication Draft (4<sup>th</sup> quarter 2025). A twelve-month public examination is identified following the submission of the Plan to the Secretary of State. Adoption is envisaged towards the end of 2027. The timetable represents a best estimate and circumstances may arise that necessitate refinements to it. For example, the way in which local plans are prepared is likely to be changed through future national planning reforms.
- 6.11.** To assist the preparation of the Plan, it is recommended that a Local Plan Member Reference Group is established to act as an informal sounding board. It would consider the findings of emerging background evidence and discuss potential future policy options, providing informal feedback to officers. It would not have any decision-making powers. Formal decisions

regarding the Plan would be made by the Environment and Communities Committee or Full Council<sup>2</sup>. Draft Terms of Reference for the Group are appended to this report.

#### Crewe Hub Area Action Plan

- 6.12.** The proposed LDS also reflects the decision by the Council's Corporate Policy Committee in November 2021 to withdraw the Crewe Hub Area Action Plan.

### **7. Consultation and Engagement**

- 7.1.** The LDS assists local communities and interested parties to keep track of the Council's progress in preparing its Local Plan. It identifies the timing of consultation stages where representations to emerging plans can be made.

### **8. Implications**

#### **8.1. Legal**

- 8.1.1.** Section 15 of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to prepare and maintain a LDS specifying, among other things, the documents which will become part of the local plan for their area and the timetable for their preparation. A LDS must be made publicly available so that local communities and interested parties can keep track of plan-making progress.

#### **8.2. Finance**

- 8.2.1.** The preparation of the Local Plan Update will require some consultancy and external legal support. The Minerals and Waste Plan may also require such support, but to a more limited degree. The Council will also incur costs from the examination of the Minerals and Waste Plan, anticipated to take place in 2024. These relate to the Inspector's costs and the appointment of a Programme Officer. It is expected that all these costs can be met through the Strategic Planning revenue budget and reserve.
- 8.2.2.** The examination of the Local Plan Update, currently forecasted to substantively take place during 2027 will give rise to further costs. These costs may exceed the Strategic Planning revenue budget and reserve. A request will be made through the Medium-Term Financial Strategy process if additional budget is needed.

#### **8.3. Policy**

- 8.3.1.** The LDS identifies the programme for preparing Local Plan policies.

#### **8.4. Equality**

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<sup>2</sup> Planning legislation requires that the decisions to submit a local plan for examination and adopt a local plan are made at a Full Council meeting.

**8.4.1.** Local plans will be accompanied and informed by an integrated Sustainability Appraisal incorporating an Equality Impact Assessment.

**8.5. Human Resources**

**8.5.1.** There are no additional human resource implications arising from this report.

**8.6. Risk Management**

**8.6.1.** The preparation of a local plan is a significant undertaking and appropriate risk management will be carried out as an integral part of its project management.

**8.7. Rural Communities**

**8.7.1.** Planning policies will cover the whole of the borough, including appropriate policies for the rural area.

**8.8. Children and Young People/Cared for Children**

**8.8.1.** Future planning policies will carefully consider the needs of all sections of the community and support their well-being.

**8.9. Public Health**

**8.9.1.** Good health will be an important objective that future planning policies will seek to support.

**8.10. Climate Change**

**8.10.1.** Future planning policies will provide an opportunity to go further with measures to mitigate climate change, having regard to national planning policy.

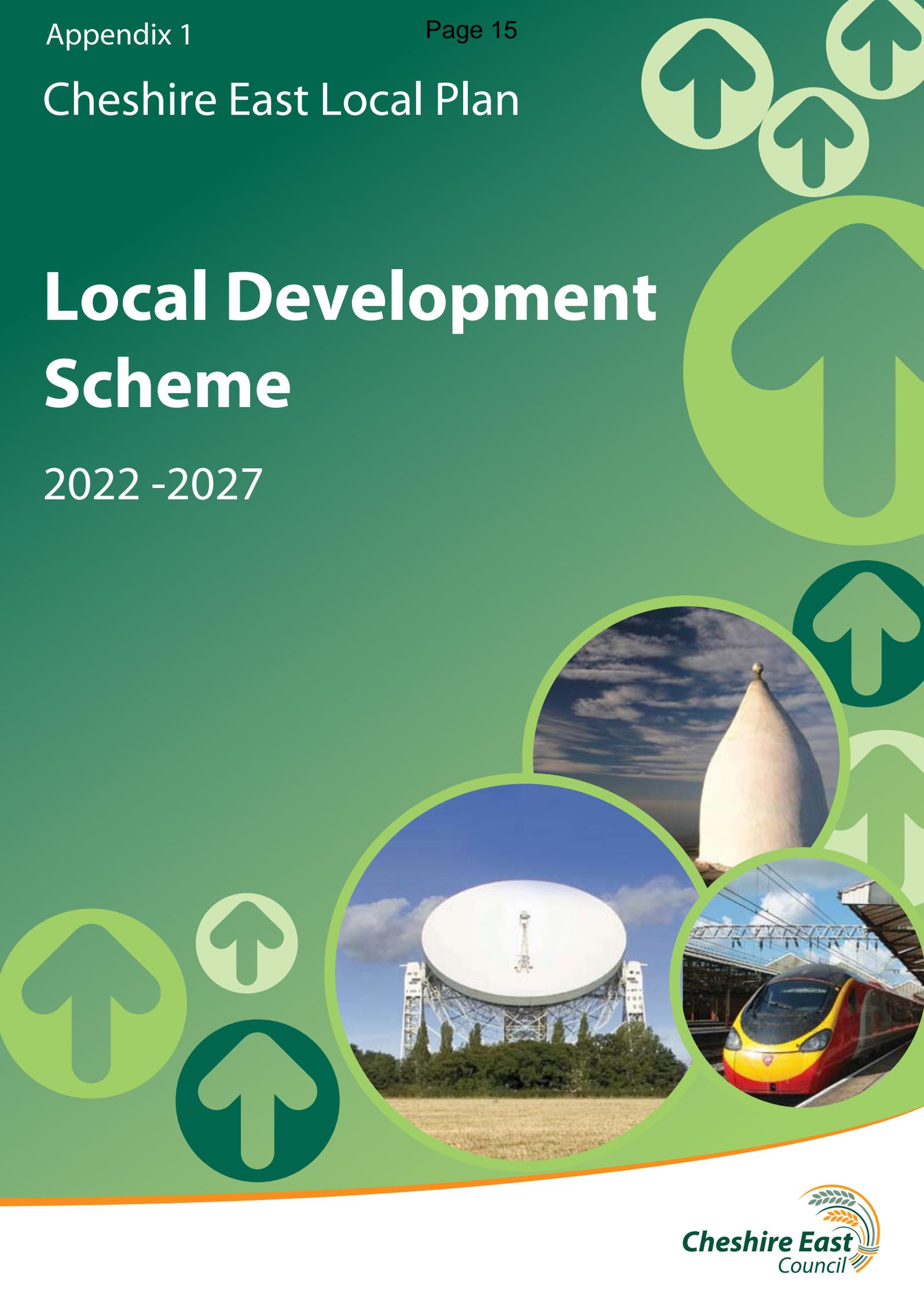
<b>Access to Information</b>	
Contact Officer:	Jeremy Owens jeremy.owens@cheshireeast.gov.uk
Appendices:	Appendix 1 Draft Cheshire East Local Development Scheme 2022-2027 Appendix 2 Local Plan Member Reference Group Draft Terms of Reference
Background Papers:	Further information about the examination of the Site Allocations and Development Policies Document can be obtained via this link:  <a href="https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire-east-local-plan/site-allocations-and-policies/sadpd-examination/sadpd-examination.aspx">https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire-east-local-plan/site-allocations-and-policies/sadpd-examination/sadpd-examination.aspx</a>

	<p>Further information about the Minerals and Waste Plan can be obtained via this link (scroll to Item 8):</p> <p><a href="http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=962&amp;MId=9277&amp;Ver=4">http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=962&amp;MId=9277&amp;Ver=4</a></p> <p>Further information about the review of the Local Plan Strategy can be obtained via this link (scroll to Item 9):</p> <p><a href="http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=962&amp;MId=9277&amp;Ver=4">http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=962&amp;MId=9277&amp;Ver=4</a></p>
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# Cheshire East Local Plan

# Local Development Scheme

2022 -2027





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## 1 Introduction

**1.1** This is the eighth Cheshire East Local Development Scheme, which sets out a programme for the preparation of documents by Cheshire East Council, up to 2027, that are intended to form part of the statutory development plan within the Borough. <sup>(1)</sup>

## 2 The Cheshire East Local Plan 2010-30

**2.1** The Cheshire East Local Plan<sup>(2)</sup> will consist of two documents. These are:

- **The Local Plan Strategy (adopted in July 2017).** Sometimes referred to as 'Part 1' of the Local Plan, it includes overarching strategic objectives policies, sites and locations for development.
- **The Site Allocations and Development Policies Document (in preparation).** Sometimes referred to as 'Part 2' of the Local Plan, its purpose is to set non-strategic policies to guide planning decisions and allocate additional sites for development to assist in meeting the overall development requirements set out in the Local Plan Strategy. On adoption, the Site Allocations and Development Policies Document will replace all the saved policies within the legacy borough plans. <sup>(3)</sup> The Plan is at an advanced stage of preparation. It was submitted to the Secretary of State for independent examination in April 2021. Examination hearings took place during October and November 2021 and proposed Main Modifications were consulted on during April and May 2022. The Council received the Inspector's Report on 17 October 2022, enabling it to proceed to adopt the Plan with Main Modifications.

## 3 The Cheshire East Minerals and Waste Plan 2021-2041 (in preparation)

**3.1** The Minerals and Waste Plan will set out policies for dealing with minerals and waste including the identification of specific sites and areas. In the previous Local Development Scheme it was proposed that the Minerals and Waste Plan would form the third part of the Cheshire East Local Plan, covering the period 2010 to 2030. However, the Council is now taking forward a Minerals and Waste Plan with a plan period of 2021 to 2041. It will contain strategic and non-strategic policies and, upon adoption, replace Local Plan Strategy Policies SE 10 (Sustainable Provision of Minerals) and SE 11 (Sustainable Management of Waste) along with the saved policies in the separate Cheshire County Council Minerals and Waste Local Plans, adopted in 1999 and 2007 respectively. <sup>(4)</sup>

1 The statutory development plan comprises both the Local Plan documents adopted by Cheshire East Council and any Neighbourhood Development Plans that are 'made'. Further information about Neighbourhood Development Plans in Cheshire East can be obtained via this [link](#)

2 The portion of Cheshire East located within the Peak District National Park is subject to the Park Authority's Planning Policies

3 The Congleton Borough Local Plan First Review (adopted January 2005), the Borough of Crewe and Nantwich Local Plan (adopted February 2005) and the Macclesfield Borough Local Plan (adopted January 2004).

4 Further information about the Minerals and Waste Plan can be obtained via this [link](#) (scroll to Item 8)



## 4 Local Plan Update (new)

4.1 The Council's Environment and Communities Committee considered a review of the Local Plan Strategy on 1 July 2022 and agreed that an update to the Plan be carried out. <sup>(5)</sup>

## 5 Other changes since the previous Local Development Scheme 2020-22

5.1 The previous Local Development Scheme 2020-2022 identified that the Council was preparing a Crewe Hub Area Action Plan covering the area of Crewe Railway Station and its immediate environs. This Plan reached a pre-submission draft stage in March 2020. However, in November 2021, the Council's Corporate Policy Committee approved the formal withdrawal of the Plan. It was considered that circumstances had changed during the COVID-19 pandemic which meant that the proposals outlined in the draft Plan were unlikely to be delivered. <sup>(6)</sup>

## 6 Policies Map

6.1 Local plans have to be accompanied by a policies map to illustrate geographically the application of policies within them. The policies map for Cheshire East will be updated when each Plan is adopted.

## 7 Supplementary Planning Documents

7.1 Supplementary Planning Documents may also be prepared to provide guidance on the implementation of key Local Plan policies <sup>(7)</sup>.

5 Further information about the review of the Local Plan Strategy can be obtained via this [link](#) (scroll to item 9)

6 Further information about the withdrawal of the Crewe Hub Area Action Plan can be obtained via this [link](#) (scroll to Item 36)

7 Further information about Cheshire East's existing and proposed supplementary planning documents can be obtained via this [link](#)



## 8 Schedule of Development Plan Documents

Title	Description	Geographic coverage	Key policy context	Local Plan preparation (Reg 18)	Publication (Reg 19)	Submission	Independent examination	Inspector's report	Adoption
Site Allocations and Development Policies DPD	Detailed policies and non-strategic site allocations	Cheshire East outside the Peak District National Park	Local Plan Strategy, NPPF, NPPG						4th Quarter 2022
Minerals and Waste Development Plan Document	Policies for dealing with minerals and waste and the identification of specific sites for minerals / waste management	Cheshire East outside the Peak District National Park	Local Plan Strategy, Site Allocations and Development Policies Document, NPPF, NPPG, National Planning Policy for Waste, National Waste Management Plan for England		3rd Quarter 2023	2nd Quarter 2024	3rd Quarter 2024	4th Quarter 2024	1st Quarter 2025
Local Plan Update	Vision, objectives and strategy for the spatial development of the area. Includes strategic sites and strategic development policies	Cheshire East outside of the Peak District National Park	Local Plan Strategy, Site Allocations and Development Policies Document, NPPF, NPPG	4th Quarter 2023 (Issues and Options) 4th Quarter 2024 (First Draft)	4th Quarter 2025	3rd Quarter 2026	1st Quarter 2027	3rd Quarter 2027	4th Quarter 2027



## Appendix A Glossary of terms

<b>Adoption</b>	The final approval of a Local Plan document by the council after the document has been through all of the stages in its preparation including independent examination. Once a Local Plan document has been adopted it becomes part of the statutory development plan which is the starting point for making planning application decisions.
<b>Area Action Plan</b>	Area Action Plans are a type of Development Plan Document providing a planning framework for a specific area of opportunity, change or conservation. Area Action Plans give a geographic or spatial dimension and focus for the implementation of policies for that area.
<b>Development Plan</b>	This comprises all of the Local Plan documents that have been adopted and the Neighbourhood Development Plans that have been 'made'. The development plan is, by law, the starting point for making planning application decisions.
<b>Independent examination</b>	This is the process by which a Local Plan document is independently assessed by a Planning Inspector appointed by the Secretary of State. It generally involves round table discussions into whether the Local Plan document has met all of the relevant legal requirements and meets the tests of 'soundness' as set out in the National Planning Policy Framework (positively prepared, justified, effective and consistent with national policy).
<b>Inspector's report</b>	This follows the examination of the Local Plan document. It sets out the inspector's conclusions about whether the Local Plan document has met all the relevant legal requirements and is 'sound' (positively prepared, justified, effective and consistent with national policy). It is accompanied by a schedule of recommended main modifications - amendments that the Inspector considers need to be made to the Local Plan document to address any legal and/or 'soundness' issues.
<b>Local Plan</b>	A local plan guides the scale, type and location of development and includes policies to achieve good design, safeguard the environment, promote well-being and achieve housing and economic growth. It is drawn up by the council, informed by public consultation and scrutinised through independent examination.
<b>Local Plan preparation (Reg 18)</b>	This stage involves evidence gathering and initial public consultation to obtain feedback on emerging policy options and proposals.
<b>Local Development Scheme (LDS)</b>	A programme setting out the Local Plan documents that the council intends to prepare and when.



**National Planning Policy Framework (NPPF)**

This is the government's national planning policy. Local Plan documents should be consistent with national planning policy.

**Publication**

This is the stage at which the council publishes its full, final draft of the Local Plan document for six weeks public consultation. It should be the version of the document that it intends to submit for examination.

**Submission**

This follows the publication stage and is the point at which the Local Plan document is formally submitted for independent examination by a Planning Inspector.

**Supplementary Planning Document (SPD)**

Documents that the Council can prepare to provide further guidance about development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the statutory development plan.



**Cheshire East Council**

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## Appendix 2

### LOCAL PLAN MEMBER REFERENCE GROUP – DRAFT TERMS OF REFERENCE

#### General remit of the Group

- An informal reference group of elected members established to support the preparation of the Council's Local Plan, providing a sounding board on key issues which the Local Plan must consider, and the reasonable options that exist to address those issues.
- The Group will not make formal decisions, which will be responsibility of the Environment and Communities Committee or Council.

#### Main tasks

- To consider and provide informal feedback to officers about matters related to the preparation of the Local Plan, including emerging evidence, issues and policy options.
- To contribute to proposals for stakeholder and community involvement in the Local Plan.

#### Membership

- To comprise 7 members reflecting the political make-up of the Council:
  - Two Labour members
  - Two Independent Group members
  - Two Conservative Group members
  - One Liberal Democrat members
- Membership to be reviewed on an annual basis (or post-election as appropriate).
- A Chair will be selected by the Group from amongst its number

#### Meetings

- Member Reference Group meetings will not be open to the public.
- Meetings to be held as and when necessary.
- Agendas to be sent to attendees 5 days prior to each meeting

#### Confidentiality

The way in which the Member Reference Group operates (not having decision-making powers and not open to the public or press) is intended to encourage members to have a free and frank debate, in which they may test concepts and ideas at a formative state. These ideas may not be subsequently taken forward. Papers will therefore (minutes, reports etc) be treated as confidential.

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## **Environment and Communities Committee**

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<b>Date of Meeting:</b>	10 November 2022
<b>Report Title:</b>	Revised Statement of Gambling Principles
<b>Report of:</b>	Jayne Traverse, Executive Director - Place
<b>Report Reference No:</b>	EC/19/22-23
<b>Ward(s) Affected:</b>	All

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### **1. Purpose of Report**

- 1.1. This report seeks recommendation to Council to adopt the revised Statement of Gambling Principles.

### **2. Executive Summary**

- 2.1 The Gambling Act 2005 requires local authorities to prepare and publish a statement of the principles that they propose to apply when exercising their functions under the Act during the three-year period to which the statement applies.
- 2.2 The Council is required to review its existing statement of principles and publish a revised version. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders identified within the Gambling Act 2005.

### **3. Recommendations**

- 3.1. That the Committee
- 3.1.1. Notes the draft revised Statement of Gambling Policy as set out at Appendix 1 to the report
- 3.1.2. Recommends the draft revised Statement of Gambling Policy to Council for adoption.

#### **4. Reasons for Recommendations**

- 4.1. The Statement of Gambling Principles is the policy document used by the Licensing Authority when making decisions under the Gambling Act 2005. It forms part of the Council's Budgetary and Policy Framework.
- 4.2. The Council is required to adopt a Statement of Gambling Principles in accordance with section 349 of the Gambling Act 2005. By virtue of the legislation, final adoption of the Statement is reserved to full Council.

#### **5. Other Options Considered**

- 5.1. No other options have been considered. The Council is required by section 349 of the Gambling Act 2005 to adopt a Statement of Gambling Principles. The route for adopting this document is set out both in legislation and by the requirements in the Council's Constitution.

#### **6. Background**

- 6.1. The Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act.
- 6.2. The draft statement, a copy of which is attached as Appendix 1, incorporates some amendments (set out in Appendix 2), but in essence remains substantially the same as previous iterations.
- 6.3. The Licensing Team have not received any comments, either positive or negative, on the current statement. Similarly, the Council has not been subject to judicial challenge on the content of the statement.
- 6.4. The Statement of Gambling Principles is the policy document that the Licensing Act Sub-Committee will use when determining contested applications under the Gambling Act 2005. Consequently, it needs to adequately guide applicants, objectors, Licensing Authority Officers, and Committee Members.
- 6.5. It will need to be acknowledged that the Council, acting as the Licensing Authority, does not administer and control all aspects of gambling. There are certain types of licences, such as operator and personal licences, that come under the remit of the Gambling Commission. In turn the Gambling Commission will issue Codes of Practice to those who provide gambling and their National Strategy to Reduce Gambling Harms. These codes of practice and guidance documents place requirements on operators that go over and above the requirements the Council can stipulate.
- 6.6. The statement must reflect that the Council is required to discharge its responsibilities under the Act with a view to promoting the three licensing objectives:
  - 6.6.1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

- 6.6.2. Ensuring that gambling is conducted in a fair and open way
- 6.6.3. Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 6.7. Within the last three years, the period the Council's current Statement of Principles has been in operation, there has been a significant decrease in the number of premises requiring a gaming permit or a premises licence. This is shown within the area profile section of the statement.
- 6.8. When undertaking the review officers have undertaken a light touch approach. This is because the gambling landscape, which needs to be addressed in the statement, has changed little in the last three years. Most gambling developments have taken place in areas such as online gambling and the control of offshore gambling providers. These aspects of gambling are outside the scope of local authority powers and therefore not appropriate for inclusion in our Statement of Gambling Principles.
- 6.9. The changes made to the statement are tabulated at Appendix 2.
- 6.10. There have been no contested applications and it has not been necessary for the Sub-Committee to use the statement in any decision-making process.
- 6.11. In reviewing the statement of principles officers have considered (amongst other things):
  - 6.11.1. The promotion of the three licensing objectives
  - 6.11.2. The guidance issued under Section 25 of the Gambling Act 2005 and any updated guidance provided by the Gambling Commission
  - 6.11.3. The Council's current Statement of Gambling Principles
  - 6.11.4. Equality legislation and requirements
- 6.12. The draft statement of principles was considered by the Director of Environment and Neighbourhood Services, and it was approved that consultation should take place with relevant stakeholders. Further details of consultation are set out within paragraph 7 of this report.
- 6.13. The revised statement was also considered by the Licensing Committee on the 5<sup>th</sup> September 2022. The Committee resolved that the draft statement should be recommended to the Environment and Communities Committee for consideration prior to being considered for adoption by full Council.

## **7. Consultation and Engagement**

- 7.1. The consultation process followed was that laid down by The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

- 7.2. Given the minor and inconsequential changes to the statement, a decision was taken to run a shorter consultation period reflective of these limited changes.
- 7.3. The consultation ran between 14<sup>th</sup> July 2022 and 11<sup>th</sup> August 2022. And during that time the consultation was advertised on our website [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)
- 7.4. No responses to the consultation were received during the consultation process. This may be a sign that gambling continues to move away from premises based gambling towards online gambling and local authority policies therefore become less important when compares to the guidance and codes of practice issued by the Gambling Commission.
- 7.5. Various stakeholders, including those representatives set out in the regulations, and all licence holders were contacted and informed of the consultation.

## 8. Implications

### 8.1. Legal

- 8.1.1. The legal implications of the Recommendations in this Report are not by themselves significant. The Environment and Communities Committee does not have the power to adopt the revised Policy. This can only be done by Council in accordance with the Constitution and in compliance with the legislation.
- 8.1.2. If the Environment and Communities Committee does not recommend the draft revised Statement of Gambling Policy to Council for adoption it must give reasons for doing so.
- 8.1.3. It is recommended that the Committee consider the following before approving the Recommendation of this Report.
- 8.1.4. Whether the revised statement includes:
- 8.1.4.1. an introductory section summarising the matters dealt with in the statement and a description of the geographical area in respect of which the authority exercises functions under the 2005 Act.
  - 8.1.4.2. a list of the persons whom the authority has consulted in preparing the revised statement.
  - 8.1.4.3. the principles to be applied by the authority in exercising the powers under section 157(h) of the 2005 Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm;
  - 8.1.4.4. the principles to be applied by the authority in exercising the powers under section 158 of the 2005 Act to determine whether a person is

an interested party in relation to a premises licence, or an application for or in respect of a premises licence;

- 8.1.4.5. the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the 2005 Act with respect to the exchange of information between it and the Gambling Commission,
- 8.1.4.6. the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act;
- 8.1.4.7. the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises;
- 8.1.4.8. the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified in that section.

## **8.2. Finance**

- 8.2.1. Administrative costs associated with the update and consultation activity for the revised Statement have been met from existing Licensing budgets.
- 8.2.2. Implementation of the revised Statement will incur staff costs that are already covered by base budgets within the Licensing service.

## **8.3. Policy**

- 8.3.1. The Council is required to revise and adopt a Statement of Gambling Principles every three years.

## **8.4. Equality**

- 8.4.1. Consideration has been given to the application of the 'public sector equality duty' (in accordance with section 149 Equality Act 2010) to the recommendation. The decision requested is likely to have a neutral effect in terms of its impact on those individuals with 'protected characteristics.'
- 8.4.2. As part of the research undertaken when writing the Local Area Profile within the Statement of Policy, it has been identified that white, working-class males in the lower age ranges are most at risk from problem gambling. That profile includes characteristics which are protected under the Equality Act 2012.
- 8.4.3. As part of the Gambling Commission's Operating Licence conditions and the Licence conditions and codes of practice, all gambling operators must have a policy setting out how they will ensure that gambling is conducted appropriately and in accordance with the Licensing Objectives. This is usually called a social responsibility policy and would include provisions setting out how an operator would protect those with protected characteristics from the harms caused by problem gambling.

**8.5. Human Resources**

8.5.1. There are no human resource implications.

**8.6. Risk Management**

8.6.1. It should be noted that the Gambling Act 2005 requires the Licensing Authority to have a Statement of Gambling Principles. However, there is no penalty that could be applied if the Licensing Authority did not adopt a Statement. Notwithstanding, any decisions taken where a policy was not in place could be subject to Judicial Review.

**8.7. Rural Communities**

8.7.1. There are no direct implications for rural communities

**8.8. Children and Young People/Cared for Children**

8.8.1. All licensed premises are required to have robust policies and processes in place to ensure that children do not take part in gambling activities. This is supported by some of the larger operators undertaking their own in-house test purchasing regime.

8.8.2. The harms that children are most likely to experience from gambling are where there are problem gamblers within the household.

8.8.3. As indicated elsewhere within the report, the majority of gambling takes place in ways that are outside the remit of the Licensing Authority and it would be very difficult for us to identify households where gambling is a problem through licensing powers.

**8.9. Public Health**

8.9.1. Gambling as an activity can have significant and devastating effect on problem gamblers and their families and friends. As identified in the Area Profile the number of premises licensed for gambling in Cheshire East is comparatively low. Additionally, we have recently seen a number of betting shops surrender their licences. Statistically, there could be either 3,354 or 1,864 problem gamblers in the Borough (depending on which measure is used). It can therefore be seen that despite the relatively low number of licensed premises there could still be significant harm being caused to residents. What we are not able to identify is by which method problem gamblers are gambling in Cheshire East (e.g. betting shops, scratch cards, or online gambling etc).

8.9.2. The Council cannot regulate online gambling within Cheshire East. The regulation of these activities is within the remit of the Gambling Commission. The Commission, in their participation in gambling annual report, has recently reported that online gambling activity has increased.

**8.10. Climate Change**

8.10.1. There are no direct implications for climate change.

<b>Access to Information</b>	
Contact Officer:	Kim Evans, Licensing Team Leader <a href="mailto:Kim.evans@cheshireeast.gov.uk">Kim.evans@cheshireeast.gov.uk</a>
Appendices:	Appendix 1 Revised SOGP 2022 v1 Appendix 2 Logged Changes to the SOGP
Background Papers:	<a href="#">statement-of-gambling-principles-2019-2022.pdf</a> <a href="#">(cheshireeast.gov.uk)</a>

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## **Cheshire East Council**

### **Statement of Gambling Principles**

#### **Gambling Act 2005**

**2023 to 2026**

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Appendix 3 Summary of machine provisions by premises

Appendix 4 Summary of gaming entitlements for clubs and alcohol-licensed premises

Appendix 5 Scheme of Delegation

Appendices 1 - 5 are included to provide further information to those interested in these matters. As the information contained within these appendices are subject to change by Central Government, they are not to be considered a part of the Statement of Principles required by section 349 of the Act. They will be subject to reasonable amendment to ensure that they remain accurate and correctly reflect the appropriate entitlements. Any amendment of this nature will not be considered a review of the Statement. As such the requirements for consultation will not apply.

## **1 Introduction**

- 1.1 This Statement of Gambling Principles is published by Cheshire East Council, as the Licensing Authority, in accordance with Section 349 of the Gambling Act 2005. The Act requires the Licensing Authority to prepare and publish a Statement of Principles which sets out the policies that the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.
- 1.2 The Licensing Authority has produced this Statement of Principles in accordance with the provisions of the Act and having regard to the provision of the Guidance issued by the Gambling Commission under Section 25 of the Act.
- 1.3 In exercising most of its functions under the Act, the Licensing Authority must have regard to the Licensing Objectives as set out in section 1 of the Act. The Licensing Objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.4 As required by the Gambling Act 2005, the draft Statement of Principles was subject to formal consultation with:
- Cheshire Constabulary
  - Representatives of those carrying on gambling businesses within the Borough of Cheshire East.
  - Representatives of those persons likely to be affected by the exercise of the Licensing Authority's functions under the Act

## **2 General Principles**

- 2.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes.
- 2.2 The Licensing Authority recognises that it may only consider matters within the scope of the Guidance issued by the Gambling Commission, the Act and the Codes of Practice. It is also recognised that there may be issues raised, such as the likelihood of the applicant obtaining planning permission, which are not relevant for the purposes of the Act.
- 2.3 Nothing in this Statement will undermine the rights of any person to make an application under the Act and have the application considered on its individual merits; or undermine the right of any person to make representations on any application or seek a review of a licence or permit where provision has been made for them to do so within the Act.
- 2.4 The Licensing Authority recognises that unmet demand is not a relevant consideration when considering an application for a premises licence under the Act. Each application will be considered on its merits without regard to demand.

- 2.5 The Licensing Authority also recognises that the location and proximity of premises to be used for gambling to other premises such as, for example, schools and premises used by vulnerable persons, may be a relevant consideration with respect to the objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The type of gambling which is to be offered will also be relevant.
- 2.6 Each application will be considered on its merits and the Licensing Authority will take into account any proposals by the applicant or licence holder which show how the licensing objectives may be satisfied.
- 2.7 In carrying out its licensing functions under the Act the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be:
- In accordance with any relevant Codes of Practice issued by the Gambling Commission
  - In accordance with any relevant Guidance issued by the Gambling Commission in accordance with this Statement of Principles, and
  - Reasonably consistent with the licensing objectives

### 3 Gambling Prevalence and Problem Gambling

- 3.1 In 2010 NatCen’s British Gambling Prevalence Survey showed that 73% of the population, had participated in some form of gambling in the past year with 56% of the population participating in some form of gambling other than the National Lottery. The 2010 survey remains the most current survey conducted by NatCen.
- 3.2 The most popular gambling activities are:

Type	% of adult population
National Lottery	59%
National Lottery scratch cards	24%
Betting on horse races	16%
Playing slot machines	13%
Online gambling	5%
Placed bets by internet	4%
Fixed Odds Betting Terminals	4%
Gambled in a casino	4%

- 3.3 Men were more likely to gamble than women (75% compared with 71%). People in higher income households were more likely to gamble; 72% in the highest income households; 61% in the lowest income households. Those with higher levels of education were less likely to gamble; 61% of those with a degree gambled compared with 73% who were educated to GCSE/O level equivalent.
- 3.4 Gambling participation was lowest among the youngest and oldest age groups and highest among those aged 44-64.
- 3.5 Gambling prevalence rates were highest among those who were either married or had been married (75%), respondents who were White/White British (76%), those whose highest educational attainment was GCSEs or equivalent (76%) or had other

qualifications (78%), those from lower supervisory/technical households (79%), those in paid work (78%), those with the highest personal income (79% for the 4th income quintile and 76% for the highest income quintile) and those living in the East Midlands (80%).

- 3.6 Two measures of problem gambling showed rates of problem gambling in the general population of 0.9% and 0.5%. A significant association was found between problem gambling and being a young male with parents who gambled. It was also associated with smoking and poor health.
- 3.7 The GamCare Annual Review 2020/2021 showed that the number of calls made to the National Gambling Helpline were up by 9% based on the previous year's figures with the number of individuals seeking support or treatment increased by 8%. Working males under 35 years were most likely to seek support and treatment. Anxiety and stress, family/relationship difficulties, financial problems, and debt are the primary reasons for gambling given by those seeking support or treatment services.
- 3.8 A pilot project in Cheshire was commenced in collaboration with Beacon Counselling Trust in 2017. This project trained Cheshire Constabulary custody staff to screen for problem gambling, understand the complexities of the issue and, where possible, to signpost to local support services.
- 3.9 The pilot was launched in three custody suites across Cheshire with 609 screenings having taken place with 85 (14%) resulting in a brief intervention to minimise gambling-related harm. Of those 17 (20%) have been referred into more structured counselling treatment with local providers.
- 3.10 In April 2021, following the successful pilot, the project has been rolled out to a further five police forces. This includes our neighbours in Manchester and Merseyside.
- 3.11 When gambling becomes a problem it can have devastating repercussions on a person's everyday life and functioning. For many clients who access GamCare's services (eg counselling) this may mean the breakdown or near breakdown of their relationships, damage to their physical and psychological health and substantial financial loss and debt. It should be acknowledged that the harm caused by problem gambling extends beyond the problem gambler themselves to include their family and friends. And can disproportionately affect the most vulnerable in society.

#### **4 Cheshire East Area Profile**

- 4.1 Cheshire East's administrative area contains the industrial town of Crewe, the old mill towns of Macclesfield, Bollington and Congleton, the market towns of Alsager, Nantwich, Knutsford and Sandbach, the salt town of Middlewich, the town of Wilmslow as well as the smaller settlements of Holmes Chapel and Poynton.
- 4.2 A full profile of the Borough is set out at Appendix 1.
- 4.3 As the persons most at risk from problem gambling are white, young males from a low income background this is most likely to affect the residents of Crewe and to a lesser extent Macclesfield. These are also the areas that already have the highest

numbers of licensed gambling premises. It will therefore be incumbent upon applicants to demonstrate that they will take appropriate steps to follow the Gambling Commission's relevant Codes of Conduct and the Council's Statement of Gambling Principles to ensure that none is exploited or harmed by gambling.

## **5 The Gambling Act 2005**

5.1 Gambling is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event ; the likelihood of anything occurring or not occurring; or whether anything is true or not
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance

5.2 The Act provides for three categories of licence:

- Operating licences
- Personal licences
- Premises licences

5.3 In accordance with the Act, the Gambling Commission has responsibility for issuing operating and personal licenses and the Licensing Authority is responsible for issuing premises licenses.

5.4 The main functions of the Licensing Authority, and the functions subject to this Statement, are:

- Licence premises for gambling activities
- Grant permits for gambling and gaming machines in clubs
- Regulate gaming and gaming machines in alcohol licensed premises
- Grant permits to family entertainment centres for the use of certain lower stake gaming machines
- Grant permits for prize gaming
- Consider notices given for the temporary use of premises for gaming
- Consider occasional use notices for betting at tracks
- Register small societies lotteries

5.5 It should be noted that:

- Spread betting is regulated by The Financial Services Authority
- Remote (on-line) gambling is dealt with by the Gambling Commission
- The National Lottery is regulated by The National Lottery Commission (which merged with the Gambling Commission in October 2013)

5.6 This Statement of Principles relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:

- Casinos
- Bingo Premises
- Betting Premises
- Tracks
- Adult Gaming Centres
- Family Entertainment Centres
- Club Gaming and Club Machine Permits
- Prize Gaming and Prize Gaming Permits
- Temporary and Occasional Use Notices
- Registration of small society lotteries

5.7 The Categories of Gaming Machine Regulations 2007 (as amended) define four classes of gaming machine, categories A, B, C and D, with category B divided into a further 5 sub-categories. A full list of the categories of Gaming Machine, together with the current maximum stakes and prizes, is set out in Appendix 2.

5.8 A breakdown of automatic entitlements in gambling premises is set out appendix 3 and a break down of automatic entitlements in alcohol licensed premises is set out at appendix 4.

## **6 Responsible Authorities**

6.1 A Responsible Authority may make representations about an application for a premises licence or may request a review of a premises licence. Sections 157 and 349 of the Gambling Act 2005 set out those bodies classified as Responsible Authorities in terms of the Act.

6.2 The Licensing Authority will apply the following principles when designating, in writing, a body which is competent to advise the authority about the protection of children from harm:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

6.3 Therefore the Licensing Authority will continue to designate the Cheshire East Local Safeguarding Children Board for the purpose of advising it on the protection of children from harm.

6.4 Section 211(4) of the Act provides that in relation to a vessel, but to no other premises, responsible authorities should also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities. These would include:

- The Environment Agency
- The British Waterways Board
- The Secretary of State acting through the Maritime and Coastguard Agency

6.5 The contact details of all the Responsible Bodies under the Gambling Act 2005 will be available on the Licensing Authorities website.

## **7 Interested Parties**

7.1 In addition to Responsible Authorities, 'Interested Parties' can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in Section 158 of the Gambling Act 2005 as follows:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- Has business interests that might be affected by the authorised activities, or
- Represents persons in either of the two groups above

7.2 In determining whether someone lives sufficiently close to a particular premises so as to be affected the Licensing Authority will take into account, among other things:

- The size of the premises
- The nature of the premises
- The distance of the premises from the person making the representation
- The nature of the complainant
- The potential impact of the premises

7.3 In determining whether a person has a business interest which could be affected the Licensing Authority will consider, among other things:

- The size of the premises
- The catchment area of the premises, and
- Whether the person making the representation has business interests in the catchment area that might be affected

7.4 Business interests will be given a wide interpretation and could include for example partnerships, faith groups and medical practices.

7.5 Representations made on the grounds that an applicant would be in competition with an existing business or that there is allegedly no demand for additional gambling premises will not be considered to be relevant.

7.6 Trade associations, trade unions, residents' and tenants' associations will not, however, generally be viewed as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the authorised activities.

7.7 Representatives of Interested Parties may include MPs, Ward Councillors and Parish Councillors. Residents' and tenants' associations, trade unions and trade associations may also represent interested parties if they have members living sufficiently close to the premises. Except in the case of Councillors or MPs representing the ward or wards likely to be affected, when written evidence will be required that a person or body represents an interested party.

- 7.8 If individuals approach Ward Councillors or Parish Councillors, care should be taken that the Councillor is not a member of the Licensing Committee or Licensing Act Sub-Committee, which will deal with the application, nor has an interest which would prevent them from addressing the Committee or Sub-Committee. If there is any doubt, advice should be sought from the Legal Team or Licensing Team.
- 7.9 Details of those persons making representations will be made available to applicants and, in the event of a hearing being held, will form part of a public document (including publication on the Council's website).

## **8 Premises Licences**

- 8.1 Premises can be 'any place' but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being different 'premises'.
- 8.2 There are particular requirements for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 set out the access provisions for each type of premises.
- 8.3 A licence to use premises for gambling will normally be issued only in relation to premises that are ready to be used for gambling. Where premises have not yet been constructed, an applicant may apply for a provisional statement – See Section 20.
- 8.4 An application for a premises licence may only be made by persons who have a right to occupy the premises.
- 8.5 Except in the case of a betting track premises licence, an application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR has made an application for an operating licence which has not yet been determined.
- 8.6 When considering applications for premises licences the licensing authority cannot take into consideration the expected 'demand' for facilities. It should also be noted that moral objections to gambling are not a valid reason to reject applications.
- 8.7 Applications for the grant, transfer or variation of a Premises Licence should be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives.
- 8.8 Premises licences granted must be reasonably consistent with the licensing objectives as follows:

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

- 8.9 The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime.
- 8.10 The Gambling Commission will deal with Operating Licences and Personal Licences so the Licensing Authority will not be concerned about the suitability of an applicant. If concerns arise about a person's suitability, the Licensing Authority will bring those concerns to the attention of the Commission.
- 8.11 The Licensing Authority will take into consideration the proposed location of gambling premises in terms of this Licensing Objective. Where an area has known high levels of organised crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there.
- 8.12 Where appropriate, conditions may be attached to a premises licence requiring the provision of door supervisors. For example, if the premises cannot be adequately supervised from the counter, door supervision may be necessary.
- 8.13 There is a distinction between disorder and nuisance. The Licensing Authority will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it in determining that distinction. It should be noted that issues of nuisance cannot be addressed under the Act.

#### **Ensuring that gambling is conducted in a fair and open way**

- 8.14 The Gambling Commission does not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the Operating and Personal Licensing regime.
- 8.15 Because betting track operators do not need an operating licence from the Commission the Licensing Authority may, in certain circumstances, require conditions to ensure that the environment in which betting takes place is suitable.

#### **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

- 8.16 Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 8.17 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 8.18 The Licensing Authority will not normally grant a premises licence for premises which are located close to schools.

- 8.19 When considering whether to grant a premises licence or permit the Licensing Authority will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.
- 8.20 The Act does not define the term 'vulnerable persons' but the Licensing Authority considers that this will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a learning disability, the state of their mental health or the effects of alcohol or drugs.
- 8.21 Licence Holders will be expected to make information publicly available about organisations that can provide advice and support, both in relation to gambling itself and to debt e.g. GamCare, Gamblers Anonymous, National Debtline, local Citizens Advice Bureau and relevant independent advice agencies.
- 8.22 The Licensing Authority is aware of the general concern surrounding betting machines that permit high volumes of betting activity by individuals, for example Fixed Odds Betting Terminals (FOBTs). Applicants should consider where such betting machines are located and monitor use to ensure excessive gambling does not take place. The Licensing Authority is also aware that Central Government is considering this issue.

## **9 Adult Gaming Centres**

- 9.1 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the Licensing Objectives, for example, to ensure that under 18 year olds do not have access to the premises.
- 9.2 Appropriate licence conditions may cover issues such as:
- Proof of age schemes
  - CCTV Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - Self-barring schemes
  - Provision of posters and/or information leaflets and helpline numbers/website addresses for organisations such as GamCare, Gamblers Anonymous, Gordon House Association, National Debtline and local Citizens Advice Bureau and other relevant independent advice agencies.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## **10 Betting Premises (other)**

- 10.1 The Licensing Authority must be satisfied that the primary use of the premises is to operate as a betting premises in accordance with the principles outlined in paragraph 16 of this Statement. The applicant will be expected to demonstrate that

they can offer sufficient facilities for betting and, unless it does so, should not be making gaming machines available on the premises.

- 10.2 The Licensing Authority will take the following into account when considering the number, nature and circumstances of betting machines an operator wants to offer:
- the size of the premises
  - the number of counter positions available for person-to-person transactions
  - the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people

## **11 Betting Tracks including other sporting venues**

- 11.1 Tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track.
- 11.2 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas and do not have access to adult only gaming facilities.
- 11.3 It should be noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 11.4 Appropriate licence conditions may cover issues such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - Self-barring schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 11.6 Where the applicant holds a Pool Betting Operating Licence and is going to use the entitlement to four gaming machines, if these machines are above category D, the applicant must demonstrate that they will be located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.
- 11.7 The Licensing Authority will consider restricting the number and location of betting machines in respect of applications for track premises licences.

- 11.8 When considering the number, nature and circumstances of betting machines an operator wants to offer, the Licensing Authority will take into account:
- the size of the premises
  - the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people
- 11.9 The Licensing Authority will normally attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

## **12 Bingo Premises**

- 12.1 It is important that, if children are allowed to enter premises licensed for bingo, they do not participate in gambling, other than on category D machines.
- 12.2 Where category C or above machines are available in premises to which children are admitted the Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to ensure that:
- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
  - only adults are admitted to the area where the machines are located
  - access to the area where the machines are located is supervised
  - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder
  - at the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
- 12.3 The Licensing Authority will take account of any guidance issued by the Gambling Commission about the particular issues which should be taken into account in relation to the suitability and layout of bingo premises and appropriate conditions will be attached to the premises licence.

## **13 Casinos**

- 13.1 This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, this Statement of Principles will be updated. Any such decision must be made by the full Council.
- 13.2 This Licensing Authority is not currently able to issue premises licences for casinos. Should the Government propose that more casinos can be licensed in the future, the Licensing Authority will review its position and this Statement of Principles will be updated.

## **14 (Licensed) Family Entertainment Centres**

14.1 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the Licensing Objectives, for example, to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

14.2 Appropriate licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous, the Gordon House Association, National Debtline and local Citizens Advice Bureau.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## **15 Licence Conditions**

15.1 There are three types of conditions that can be attached to premises licences:

- Mandatory – Conditions prescribed in regulations made by the Secretary of State which must be attached
- Default – Conditions prescribed in regulations made by the Secretary of State which will be attached unless specifically excluded by the Licensing Authority
- Conditions attached by the Licensing Authority

15.2 Any conditions imposed by the Licensing Authority will be appropriate, proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for
- fairly and reasonably related to the scale and type of premises
- reasonable in all other respects

15.3 Applicants are encouraged to offer their own suggested conditions to demonstrate how the Licensing Objectives can be met.

15.4 There are conditions which the Licensing Authority cannot attach to premises licences which are:

- any condition which makes it impossible to comply with an operating licence condition

- conditions relating to gaming machine categories, numbers, or method of operation
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs)
- conditions in relation to stakes, fees, winnings or prizes

15.5 Where a condition is attached to a premises licence requiring door supervisors, the Licensing Authority will normally require those door supervisors to be Security Industry Authority (SIA) registered.

15.6 Door supervisors employed in house at casinos or bingo premises are exempt from being registered by the SIA but the Licensing Authority considers that it is best practice for door supervisors working at casinos or bingo premises to have SIA training or similar. The Licensing Authority will also expect door supervisors employed at casinos or bingo premises to have a clear Disclosure and Barring check over the previous three years prior to their employment at the casino or bingo premises.

## **16 Primary Gambling Activity**

16.1 The primary activity of each premises licence type is specified on the premises licence when it is issued. Section 150 of the Gambling Act 2005 authorises the provision of gambling facilities for the following types of premises licences:

- Casino premises
- Bingo premises
- Betting premises, including tracks and premises used by betting intermediaries
- Adult gaming centre premises (for category C and D machines)
- Family entertainment centre premises (for category C and D machines) (note that, separate to this category, the Licensing Authority may issue family entertainment centre gaming machine permits, which authorise the use of category D machines only).

16.2 In betting premises the primary activity will be betting, with gaming machines as an ancillary offer on the premises. The Commission have provided information relating to the primary gambling activity. This guidance sets out the requirements on the operator to ensure that their premises operate within the terms of the Act and the relevant conditions. It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

16.3 The Licensing Authority will take decisions in accordance with the Commission's guidance and codes of practice on primary gambling activity, and will have regard to the advice which it issues from time to time, and will expect applicants to operate premises in line with the Commission's Guidance and conditions on their operator licence. The Licensing Authority will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed. For example a betting (other) premises licence application that only has 4 gaming machines but no betting counter or associated

betting facilities shown on the proposed plans, will not be considered as offering the primary gambling activity in accordance with that indicated on the application.

## **17 Buildings divided into more than one premises**

- 17.1 The Guidance states that a building can, in principle, be divided into more than one premises, and subject to more than one premises licence provided they are for different parts of the building, and the different parts of the building can be reasonably regarded as being different premises. An example is given of the units within a shopping mall, where each unit is a separate self-contained premises that is contained within one building. It is also possible for licensed premises to be located next to each other. The Licensing Authority will follow this guidance.
- 17.2 Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the Licensing Authority will need to be satisfied that the different premises are genuinely separate premises, and not an artificially created part of what is readily identifiable as a single premises.
- 17.3 In considering whether different areas of a building are genuinely separate premises the Licensing Authority will take into account factors which will include:
- whether there are separate registrations for business rates in place for the premises
  - whether the premises are owned or operated by the same person
  - whether the premises are operated independently of each other

## **18 Separation of premises within a single building**

- 18.1 When considering proposals to divide a building into genuinely separate premises the Licensing Authority will also need to be satisfied that the form of separation between the premises is appropriate.
- 18.2 The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another. The Licensing Authority would not, for example, be likely to consider that separation of areas of a building by ropes, or by low level, or moveable partitions to be appropriate.
- 18.3 It may be acceptable for staff working in adjacent premises to have access through barriers between premises to enable them access one premises from the other. The applicant must demonstrate that in providing this staff access there are suitable control measures in place that will ensure the safety and security of staff and that will effectively prevent the public from using the same access point to enter the other premises.

## **19 Access to premises**

- 19.1 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises the Licensing Authority will

have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions which relate to access between premises.

- 19.2 The requirement and restrictions relating to access are set out in paragraph 7.26 of the Commission's Guidance. In certain circumstances customers are restricted from accessing different types of gambling premises directly from other licensed premises.
- 19.3 The Guidance at paragraph 7.25 states 'There is no definition of "direct access" in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (for example a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.'
- 19.4 It is the Licensing Authority's opinion that any area which separates licensed premises, and from which those premises can be accessed, must be genuinely separate premises which are habitually and actually used by members of the public other than those using the licensed premises.
- 19.5 The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or ATMs.
- 19.6 Where the Licensing Authority is satisfied that a building can be divided into separate premises and properly satisfy the statutory provisions, the Licensing Authority will expect applicants to ensure that:
- Premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part
  - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit
  - Customers should be able to participate in the activity named on the premises licence

This is not an exhaustive list and the Licensing Authority will consider other aspects based on the merits of the application.

## **20 Provisional Statements**

- 20.1 An applicant may apply for a provisional statement in respect of premises expected to be constructed, altered or acquired.
- 20.2 Applications for provisional statements will be dealt with in a similar manner to applications for a premises licence.

- 20.3 Where a provisional statement is granted and an application subsequently made for a premises licence, the Licensing Authority will disregard any representations made which address matters that could have been addressed when the provisional statement was considered unless there has been a change of circumstances.
- 20.4 A premises licence will be granted in the same terms as the provisional statement unless
- representations are received which address matters that could not have been addressed when the provisional statement was considered
  - there has been a change of circumstances
  - the premises have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement

## **21 Reviews of Licences**

- 21.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, including the Licensing Authority. However, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- any relevant code of practice issued by the Gambling Commission
  - any relevant guidance issued by the Gambling Commission
  - the Licensing Objectives
  - the Licensing Authority's Statement of Principles
- 21.2 The Licensing Authority may reject an application for review if it thinks that the grounds on which the review is sought:
- are not relevant to the relevant code of practice or guidance issued by the Gambling Commission, the Licensing Objectives or the Licensing Authority's Statement of Principles
  - are frivolous
  - are vexatious
  - 'will certainly not' cause the Licensing Authority to revoke or suspend the licence or to remove, amend or attach conditions on the premises licence
  - are substantially the same as grounds cited in a previous application relating to the same premises (the Licensing Authority will consider the length of time that has passed since the earlier application in deciding whether this is a reasonable reason to reject the review application)
  - are substantially the same as representations made at the time the application for the premises licence was considered. While the licensing authority will consider the length of time that has passed since the representations were made, it will not normally review a licence on the basis of the same arguments considered on the grant of the premises licence
- 21.3 General objections to gambling as an activity are not likely to be considered relevant reasons for a review. Other examples of irrelevant considerations include demand for gambling premises, issues relating to planning, public safety and traffic congestion.

- 21.4 The Licensing Authority itself, as a responsible authority can initiate a review of a particular premises licence, or any particular class of premises licence, for any reason which it thinks is appropriate. This includes reviewing a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them, or to ensure that the principle of primary use is applied.
- 21.5 The Licensing Authority may review any matter connected with the use made of a particular premises if it has reason to believe that the premises licence conditions are not being observed, or for any other reason which gives it cause to believe a review may be appropriate.
- 21.6 A responsible authority or interested party may apply to the Licensing Authority to review a premises licence. Such reviews can be made in relation to, amongst other things:
- if there are repeated incidents of crime and disorder associated with the premises or the gambling activity which the premises operator has failed to adequately address
  - where incidents that have adversely affected one or more Licensing Objectives have occurred at a premises that could have been prevented if advice and guidance from a responsible authority had been heeded
  - if the premises due to the activities being undertaken is either attracting children or people likely to be involved in crime and disorder
- 21.7 As a review of a premises licence can lead to its revocation the Licensing Authority will consider whether informal actions to ensure timely or immediate compliance have been exhausted prior to an application being made. The Licensing Authority accepts that an application for review may be appropriate without informal measures being taken, but will seek to establish that all options have been considered in determining review applications.

## **22 Permits**

- 22.1 Permits regulate gambling and the use of gaming machines in a premises which does not hold a premises licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.
- 22.2 The Licensing Authority is responsible for issuing the following permits:
- alcohol licensed premises gaming machine permits
  - club gaming permits and club machine permit
  - prize gaming permits
  - unlicensed family entertainment centre gaming machine permits
- 22.3 The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.

## **23 (Alcohol) Licensed Premises Gaming Machine Permits**

- 23.1 Premises licensed to sell alcohol are automatically entitled to have 2 gaming machines of categories C or D provided that:
- the requisite notice has been served on the Licensing Authority
  - the appropriate fee has been paid
  - any code of practice relating to the location and operation of gaming machines is complied with
- 23.2 The Licensing Authority can remove the automatic authorisation if:
- provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives
  - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
  - the premises are mainly used for gaming
  - an offence under the Gambling Act has been committed on the premises
- 23.3 If a licensed premises wishes to have more than 2 machines, then a permit is required.
- 23.4 The Licensing Authority must take account of the Licensing Objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005 when considering an application for a permit. The Licensing Authority may also consider such matters as it thinks are relevant. Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling.
- 23.5 The Licensing Authority will expect the applicant to demonstrate that there will be sufficient measures to ensure that children and young people do not have access to the adult only gaming machines. Such measures may include notices and signage, adult machines being in sight of the bar or in sight of staff that will monitor that the machines are not being used by those under 18. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare, Gamblers Anonymous, the Gordon House Association, National Debtline, local Citizens Advice Bureau, and any other relevant and independent advice agencies.
- 23.6 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 23.7 The Licensing Authority may decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for. No other conditions can be attached to the permit.

23.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

## **24 Club Gaming and Club Machines Permits**

24.1 Members clubs and Miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club machine permit. Commercial clubs may apply for a club machine permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B, C or D), equal chance gaming, and games of chance as set out in regulations. A club machine permit will enable the premises to provide gaming machines (three machines of categories B4, C or D).

24.2 A club must meet the following criteria to be considered a members' club:

- It must have at least 25 members
- It must be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is permitted by separate regulations)
- It must be permanent in nature
- It must not be established to make a commercial profit
- It must be controlled by its members equally

Examples of these include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

24.3 The Licensing Authority may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- the applicant's premises are used wholly or mainly by children and/or young persons
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years
- an objection has been lodged by the Gambling Commission or the Police

24.4 There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a Licensing Authority can refuse a permit are reduced. The grounds on which an application under this process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled

24.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **25 Prize Gaming Permits**

25.1 Gaming is prize gaming if the prize is not affected by the number of people playing or the amount paid for or raised by the gaming. Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.

25.2 In exercising its functions in respect of prize gaming permits, the Licensing Authority need not, but may, have regard to the Licensing Objectives and must have regard to any guidance issued by the Gambling Commission.

25.3 It should be noted that there are conditions in the Act with which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day
- the game must be played and completed on the day the chances are allocated and the result of the game must be made public in the premises on the day that it is played
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize)
- participation in the gaming must not entitle the player to take part in any other gambling

25.4 The Licensing Authority cannot attach any other conditions to this type of permit.

25.5 During the application process, the applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:

- an understanding of the limits to stakes and prizes set out in regulations
- That the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm

25.6 The Licensing Authority will only grant a permit after consultation with the Chief Officer of Police. This will enable the Licensing Authority to determine the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming, the suitability of the premises in relation to their location, and issues about disorder.

25.7 Given that the prize gaming will particularly appeal to children and young persons, the licensing authority will give weight to child protection issues.

## **26 Unlicensed Family Entertainment Centre (uFEC) Gaming Machine Permits**

- 26.1 Where Category D gaming machines are to be provided at premises which do not have a premises licence but will be wholly or mainly used for making Category D gaming machines available for use, an application may be made for a permit.
- 26.2 A uFEC can form a part of larger premises provided it is separate and identifiable.
- 26.3 In exercising its functions in respect of uFEC permits, the Licensing Authority need not, but may have regard to the licensing objectives and must have regard to any guidance issued by the Gambling Commission.
- 26.4 The Licensing Authority cannot attach conditions to this type of permit but will consider the following matters in determining the suitability of an applicant for a permit.
- 26.5 Applicants will be expected to show that there are policies and procedures in place to protect children from harm. These may include appropriate measures and training for staff in dealing with:
- Suspected truant school children on the premises
  - Unsupervised young children on the premises
  - Children causing problems on or around the premises
- 26.6 Applicants will be expected to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs and that staff are trained to have a full understanding of the maximum stakes and prizes.
- 26.7 Applicants will be required to demonstrate that they have no relevant convictions as set out in Schedule 7 of the Act.
- 26.8 The Licensing Authority will not normally grant a uFEC permit for premises that are located close to schools.

## **27 Temporary Use Notices**

- 27.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for gambling would include hotels, conference centres and sporting venues.
- 27.2 The Licensing Authority can only grant a Temporary Use Notice to a person or a company holding a relevant operating licence.
- 27.3 Currently, Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.
- 27.4 The Licensing Authority will object to temporary use notices where it appears that they are being used to permit regular gambling in a set of premises.
- 27.5 A set of premises may not be the subject of temporary use notices for more than 21 days within a 12 month period.

- 27.6 In determining whether a place falls within the definition of a 'set of premises' the Licensing Authority will take into consideration ownership/occupation and control of the premises. For example, a large exhibition centre will normally be regarded as one set of premises and will not be allowed separate temporary use notices for each of its exhibition halls. Individual units in a shopping centre may be regarded as different sets of premises if they are occupied and controlled by different people.

## **28 Occasional Use Notices**

- 28.1 The Licensing Authority has little discretion but to accept occasional use notice at 'tracks'. However the Licensing Authority must ensure that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will, however, consider the definition of a 'track'. The applicant will also need to demonstrate that they are responsible for the administration of the 'track' or is an occupier, and therefore permitted to make use of the notice. It should be noted that the definition of track in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. This could include major halls, hotels and other venues in Cheshire East. If notices are given for a single track which would permit betting to occur for more than 8 days per year the Licensing Authority has an obligation to issue a counter notice preventing such a breach occurring.
- 28.2 Where betting takes place on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
- 28.3 A track includes a horse racing course, a dog track or any other premises on any part of which a race or other sporting event takes place or is intended to take place. This could include, for example, agricultural land upon which a point-to-point meeting takes place. The track need not be a permanent fixture. Those giving occasional use notices will be expected to demonstrate that the premises fall within the definition of a track.

## **29 Travelling Fairs**

- 29.1 The Act defines a travelling fair as 'wholly or principally' providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated.
- 29.2 It will fall to the Licensing Authority to decide whether, where category D machines and/ or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 29.3 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair. The Licensing Authority notes the 27 day statutory maximum for the land being used as a fair each calendar year applies to the piece of land on which the fairs are held, regardless of whether it is the same or

different travelling fairs occupying the land. The Licensing Authority will monitor any travelling fairs that take place in Cheshire East that offer gambling as an ancillary use to the fair through liaison with the Event Safety Advisory Group. The Licensing Authority will ensure that the 27 day statutory maximum for the land being used is not breached. The Licensing Authority will advise travelling fair operators if requested of the statutory time period remaining for the land they intend to use.

### **30 Small Society Lotteries**

- 30.1 The Licensing Authority is responsible for the registration of small society lotteries.
- 30.2 A society is a non-commercial organisation established and conducted:
- for charitable purposes
  - for the purpose of enabling participation in, or of supporting sport, athletics or a cultural activity
  - for any other non-commercial purpose other than that of private gain and the proceeds of any lottery must be devoted to those purposes
- 30.3 The total value of tickets to be put on sale per single lottery must be £20,000 or less or the aggregate value of tickets to be put on sale for all lotteries in a calendar year must not exceed £250,000. If either of these values is exceeded, the society will need to be licensed by the Gambling Commission to operate large lotteries.
- 30.4 Applications for registration must be made in accordance with the Small Society Lotteries (Registration of Non-Commercial Societies) Regulations 2007.
- 30.5 An application may be refused on the following grounds:
- An operating licence held by the applicant for registration has been revoked or an application for an operating licence by the applicant for registration has been refused within the past 5 years
  - The applicant is not a non-commercial society
  - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence
  - Information provided in or with the application for registration is found to be false or misleading
- 30.6 Registrations run for an unlimited period, unless the registration is cancelled or revoked.
- 30.7 The limits placed on small society lotteries are as follows:
- At least 20% of the lottery proceeds must be applied to the purposes of the society
  - No single prize may be worth more than £25,000
  - Rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society and the maximum single prize is £25,000

- Every ticket in the lottery must cost the same and the society must take payment for the ticket before entry into the draw is allowed

30.8 No later than three months after each lottery draw, returns must be sent to the Licensing Authority containing the following information:

- The arrangements for the lottery
- The total proceeds of the lottery
- The amounts deducted for prizes
- The amounts deducted for expenses
- The amount applied to the purposes of the society
- Whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds and, if so, the amount of such expenses and the sources from which they were paid

## **31 Exchange of Information**

31.1 The Licensing Authority will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission. The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

3.1.2 The Council will at all times ensure compliance with the General Data Protection Regulations and the Data Protection Act 2018. However, information will be shared with anyone provided there is a lawful basis to do so. This may include the sharing of personal and/or special category data.

## **32 Enforcement**

32.1 The Licensing Authority will operate within the principles of natural justice and take into account the Human Rights Act 1998. It will have regard to Commission Guidance and will endeavour to avoid unnecessary duplication with other regulatory regimes as far as possible and to be:

- Proportionate: only intervening when necessary and remedies will be appropriate to the risk posed, and costs identified and minimised
- Accountable: able to justify its decisions, and be subject to public scrutiny
- Consistent: implementing rules and standards fairly in a joined-up way
- Transparent: open, and keep conditions placed on premises licences simple and user friendly
- Targeted: focusing on the problems, and aiming to minimise the side effects

32.2 The main enforcement and compliance role for the Licensing Authority is to ensure compliance with the premises licences and other permissions which it grants itself. The Gambling Commission will be the enforcement body for operating licences and personal licences. Similarly, concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority, but the Licensing Authority will be alert to the way premises are operated and will notify the Gambling Commission if it becomes aware of matters of concern in the operation of the premises.

32.3 The Licensing Authority will comply with the Enforcement Policy approved by the Council. This Policy includes provisions for licensing offences and is available on the Council's website.

### **33 Scheme of Delegation**

33.1 The Licensing Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

33.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Licensing Authority Officers. The table shown at Appendix 5 sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committee and Officers. This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

### **34 Definitions of Gambling Activities**

#### **Adult Gaming Centres**

Adult gaming centres (AGCs) are a category of gambling premises contained within the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the licensing authority. The holder of an adult gaming centre premises licence may make available for use up to four category B3 or B4 machines, any number of category C or D machines.

#### **Amusement arcades**

These are not referred to as such in the Act. See Adult Gaming Centres and licensed and unlicensed family entertainment centres.

#### **Betting**

Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true.

#### **Bingo**

Bingo has no statutory definition in the Act. It has its ordinary and natural meaning. The distinction between cash bingo, where cash prizes are derived from the stakes, and prize bingo, where prizes were not directly related to the stakes paid, under the previous legislation has been removed for commercial operators, and the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize. That means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms. So too will alcohol-licensed premises, club and miners' welfare institutes (up to a total weekly prize value of less than £2,000).

Prize bingo is traditionally played in arcades, or travelling funfairs. For these operators, prize bingo is subsumed within the allowances for prize gaming in the Act. This means that adult gaming centres, both licensed and unlicensed family entertainment centres, travelling fairs, and any premises with a prize gaming permit will be able to offer prize gaming, which includes prize bingo. There will be Government Regulations issued setting the prize limits.

## **Casino**

'An arrangement' whereby people can participate in one or more casino games.

## **Casino Games**

Games of chance not being equal chance gaming ie games in which players stake against a 'bank'.

## **Equal chance gaming**

This is a game where the chances of winning are equally favourable to all participants, and which does not involve playing or staking against a "bank". It is immaterial how the 'bank' is described and whether or not it is controlled by a player.

## **Exempt activities**

Private betting is betting which takes place between inhabitants of the same premises or between employees of the same employer.

Private gaming (which is gaming that takes place in private dwellings and on domestic occasions) is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access.

Non commercial Gambling is when no part of the proceeds/profits will be for private gain. The proceeds/profits are the sums raised by the organisers, for example, by way of fees for entrance or participation, or by way of stakes, minus an amount deducted by the organiser in respect of costs reasonably incurred in organising the event including the provision of a prize. The following conditions would also have to apply:

- The profits will be for a purpose other than that for private gain;
- The players are informed that the purpose of the gaming is to raise money for a specified purpose other than that of private gain;
- The event must NOT take place in premises which either have a premises licence or on premises relying on a temporary use notice under the new act;
- The gaming must not be remote.

Any Regulations made by the Secretary of State will need to be complied with and will include for example regulations limiting the amounts staked and limiting participation fees. If the profits from the activity used for a purpose other than that which was specified, an offence would be committed.

## **Gambling**

Gambling is defined as either gaming, betting or participating in a lottery.

## **Games of chance**

Includes games that involve elements of both chance and skill. This includes games in which skill can eliminate an element of chance and includes games that are presented as involving an element of chance. It does not include a sport. Playing a game of chance need not involve other participants.

## **Gaming**

Gaming means playing a game of chance for a prize

## **Gaming machines – Categories**

The table at appendix 2 sets out the different categories with the maximum stakes and prizes that apply.

### **Gaming Machines by Premises Type**

The table at appendix 3 sets out the different automatic entitlements at each type of premises.

### **Fixed Odds Betting Terminals**

Fixed odds betting terminals (FOBTs) are electronic machines, sited in betting shops, which contain a variety of games, including roulette. Each machine accepts bets for amounts up to a pre-set maximum and pays out according to fixed odds on the simulated outcomes of games.

The Act classifies FOBTs as B2 gaming machines. Up to four machines can be sited on betting premises. The maximum stake on a single bet is £100, the maximum prize is £500.

### **Licensed Family Entertainment Centres**

These premises require operating licences from the Gambling Commission. They will be able to offer gaming machines in categories C and D. Gaming machines are a form of gambling which is attractive to children and Licensed Family Entertainment Centres may contain machines of the Category D machines on which they are allowed to play as well as category C which they are not permitted to play on.

### **Lottery**

A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

### **Operating Licence**

The Act requires that individuals or companies who intend to provide facilities for certain types of gambling must obtain an operating licence from the Gambling Commission. In general, these licences cover the principal commercial forms of gambling operation. Operating licences may be issued for the following forms of gambling:

- A casino operating licence
- A bingo operating licence
- A general betting operating licence
- A pool betting operating licence
- A betting intermediary operating licence
- A gaming machine general operating licence (for an adult gaming centre)
- A gaming machine general operating licence (for a family entertainment centre)
- A gaming machine technical operating licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine)
- A gambling software operating licence (to manufacture, supply, install or adapt gambling software)
- A lottery operating licence

### **Premises Licence**

A premises licence issued by a Licensing Authority authorises the provision of facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres.

### **Track**

A horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

### Unlicensed Family Entertainment Centres

These premises can provide category D machines providing prizes of up to £5 cash or £8 in goods. Stakes are limited to 10p (or 30p for a goods prize). They can also offer prize bingo.

## 35 Glossary of Terms

Act:	The Gambling Act 2005
Adult:	Means an individual who is not a child or young person
Applications:	Applications for licences and permits as defined separately in this Policy and the Guidance.
Borough:	The area of Cheshire administered by Cheshire East Borough Council
Child and Young Person:	The Act includes the definition of a child at S.45 as:  Meaning of “child” and “young person” (1) In this Act “child” means an individual who is less than 16 years old (2) In the Act “young person” means an individual who is not a child but who is less than 18 years old.
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Council:	Cheshire East Council
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Cheshire East Council
GamCare:	GamCare is a leading provider of information, advice, support and free counselling for the prevention and treatment of problem gambling. GamCare is a national charity and was founded in 1997.
Guidance:	The Gambling Commission under section 25 of the Act are required to issue guidance on the manner in which local authorities are to exercise their functions under the Act, in particular, the principles to be applied by local authorities in exercising their functions under the Act.
Interested Party:	Interested parties are defined under section 158 of the Act. To accept a representation from an interested party, the council must take the view that the person: (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities, (b) has business interests that might be affected by the authorised

activities

(c) represents persons in either of these groups.

Interested parties can also be a councillor or an MP

Licensing  
Authority:

Cheshire East Council

Licensing  
Objectives:

The Act contains three licensing objectives which underpin the functions that the licensing authorities will perform

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

2. Ensuring that gambling is conducted in a fair and open way

3. Protecting children and other vulnerable persons from being harmed or exploited by gambling

Mandatory  
Condition:

Means a specified condition provided by regulations to be attached to a licence

NatCen:

National Centre for Social Research. Conducted the British Gambling Prevalence Surveys of 1999, 2007 and 2010 on behalf of the Gambling Commission

Notifications:

Means notification of temporary or occasional use notices

Premises:

Any place, including a vehicle, vessel or moveable structure

Regulations:

Regulations made under the Gambling Act 2005

Representations:

In dealing with applications the Council is obliged to consider representations from two categories of person, referred to in the Act as interested parties and responsible authorities.

Responsible  
Authority:

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the Licensing Authority in relation to applications for, and in relation to, premises licences. All representations made by responsible authorities are likely to be relevant representations if they relate to the licensing objectives.

Section 157 of the Act identifies the bodies that are to be treated as responsible authorities.

They are:

(a) a licensing authority in England and Wales in whose area the premises is wholly or partly situated

(b) the Gambling Commission

(c) the chief officer of police or chief constable for the area in which the premises is wholly or partially situated

(d) the fire and rescue authority for the same area

(e) (i) in England and Wales, the local planning authority, or

(ii) in Scotland, the planning authority

- (f) the relevant authority as defined in section 6 of the Fire (Scotland) Act 2005
- (g) an authority which has functions in relation to pollution to the environment or harm to human health
- (h) anybody, designated in writing by the licensing authority as competent to advise about the protection of children from harm
- (i) HM Revenue & Customs
- (j) any other person prescribed in regulations by the Secretary of State.

## Cheshire East – Area Profile (spring 2015)

### Introduction

Cheshire East is the third biggest unitary authority in the North West and the thirteenth largest in the country. It therefore has a wide breadth of social grades, age profiles and ranges of affluence. There is a clear link between these measures and the likelihood of a person gambling. It also needs to be acknowledged that there are clear differences between the type of person who gambles responsibly and the type who is identified as a problem gambler. This profile will therefore concentrate on the measures that can contribute to gambling and problem gambling.



### People

Cheshire East has an estimated population of 372,700<sup>1</sup>, the population density is 3.2 residents per hectare<sup>2</sup>, making Cheshire East less densely populated than the North West (5.0 per hectare) and England (4.1 per hectare).

Between the 2001 and 2011 Census, the median age of residents has increased from 40.6 years to 43.6 years<sup>3</sup>. Between the same years, the number of over 65s has increased by 11,700 residents or 26%, which is a greater increase than the North West (15%) and England & Wales (20%).

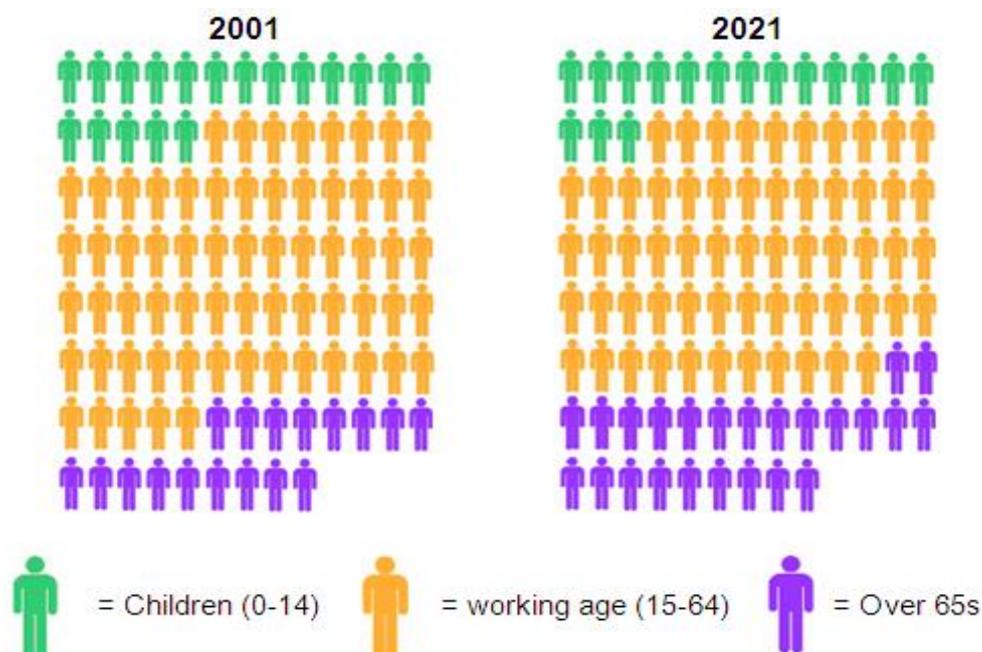
<sup>1</sup> 2013 Mid-year population estimates, Office for National Statistics, NOMIS, Crown Copyright

<sup>2</sup> 2011 Mid-year population estimates and UK Standard Area Measurements (SAM) 2011, Office for National Statistics, Crown Copyright

<sup>3</sup> 2001 and 2011 Census, Office for National Statistics, Crown Copyright

From 2011 to 2021 the population was expected to increase by 15,700 people (4.2%) to 385,800, a greater increase than the North West (3.7%) but less than England (7.5%)<sup>4</sup>. The number of children (aged 0-14) is estimated to increase by 4%, with a slight decrease (-2%) in those of working age (15-64). The number of residents over the age of 65 is expected to increase substantially by 19%, however this increase is similar to England (20% increase). Caution should be exercised when using any predictions about the future population, as they assume trends in recent years will continue into future years.

**Figure 1: Proportion of residents by broad age groups – change over 20 years<sup>5</sup>**



## Economy

Cheshire East contains 5.1% of the North West region’s working-age residents<sup>6</sup>, but accounts for an even greater share (5.7%) of the region’s employees<sup>7</sup>. In terms of economic output, its contribution is much greater still, at 6.9%<sup>8</sup>.

The proportion of working age residents who are claiming job seekers allowance benefit is low (1.0%) when compared to the North West (2.0%) and England (1.9%) averages<sup>9</sup>. Within Cheshire East there are large disparities – from 0.1% in Adlington & Prestbury to 2.7% in West Coppenhall and Grosvenor. If all out-of-work benefits are included rather than just those actively seeking work, 7.8% of residents of working age receive an out-of-work benefit<sup>10</sup>, ranging from 1.4% in

<sup>4</sup> 2012 Sub-National Population Projections, Office for National Statistics, Crown Copyright

<sup>5</sup> 2001 and 2011 Census, Office for National Statistics, Crown Copyright & 2012 Sub-National Population Projections, Office for National Statistics, Crown Copyright

<sup>6</sup> 2013 Mid-year population estimates, Office for National Statistics, Crown Copyright

<sup>7</sup> 2013 Business Register and Employment Survey, Office for National Statistics, Crown Copyright

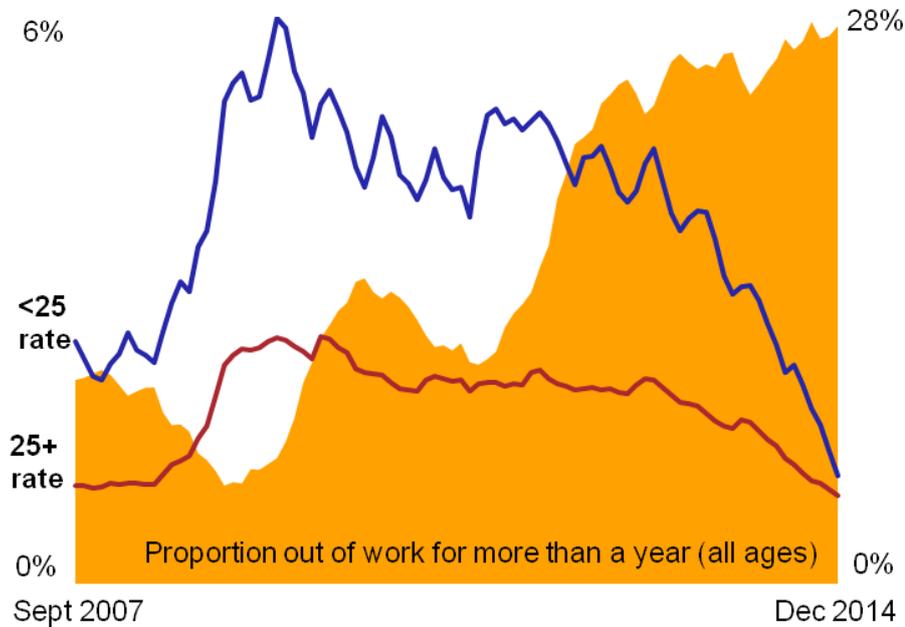
<sup>8</sup> Regional GVA NUTS3 (1997-2013), Table 3.1, Regional Gross Value Added (Income Approach), Office for National Statistics

<sup>9</sup> December 2014, JSA Claimant Count, DWP and 2013 mid-year estimates, Office for National Statistics, NOMIS, Crown Copyright

<sup>10</sup> Out-of-work benefits, 4 quarter average July 2013 – June 2014, Department for Work and Pensions. Calculations consistent with NI 152/153

Macclesfield Town Tytherington to more than one in four residents of working age (26.5%) in East Copenhall, Crewe.

**Figure 2: Job Seekers Allowance claimants (unemployment) for young people (under 25) and others (over 25), with the proportion of people of all ages claiming for more than one year<sup>11</sup>**



Average (median) household income levels are high (£33,000) compared to Great Britain (£28,500)<sup>12</sup>. However, there is a considerable range of average household income levels at ward level, from £18,800 in Crewe St Barnabas ward to £56,900 in Prestbury. Across Cheshire East there are 16 of 231 statistical areas (LSOAs)<sup>13</sup> which are within the top 20% of most deprived areas in England (figure 3), affecting 28,800 or 7.7% of Cheshire East's population<sup>14</sup>. 11 of these areas are in Crewe, with 2 in Wilmslow/Handforth, 2 in Macclesfield and 1 in Congleton. Overall, relative deprivation levels were worse in 2010 than 2007, as only 14 areas were within the top 20% of most deprived areas.

Acorn data is socio-economic data that analyses the residents and places them in classifications, depending on various factors such as demographics, affluence and spending habits. There are seventeen Acorn groups, with the 'Executive Wealth' group being the largest in Cheshire East (27%) a considerably higher proportion than the UK average (12%). There are also approximately five times more residents in the 'lavish lifestyles' groups within Cheshire East compared to the UK, although this group constitutes a small proportion of all Cheshire East's residents (6%).

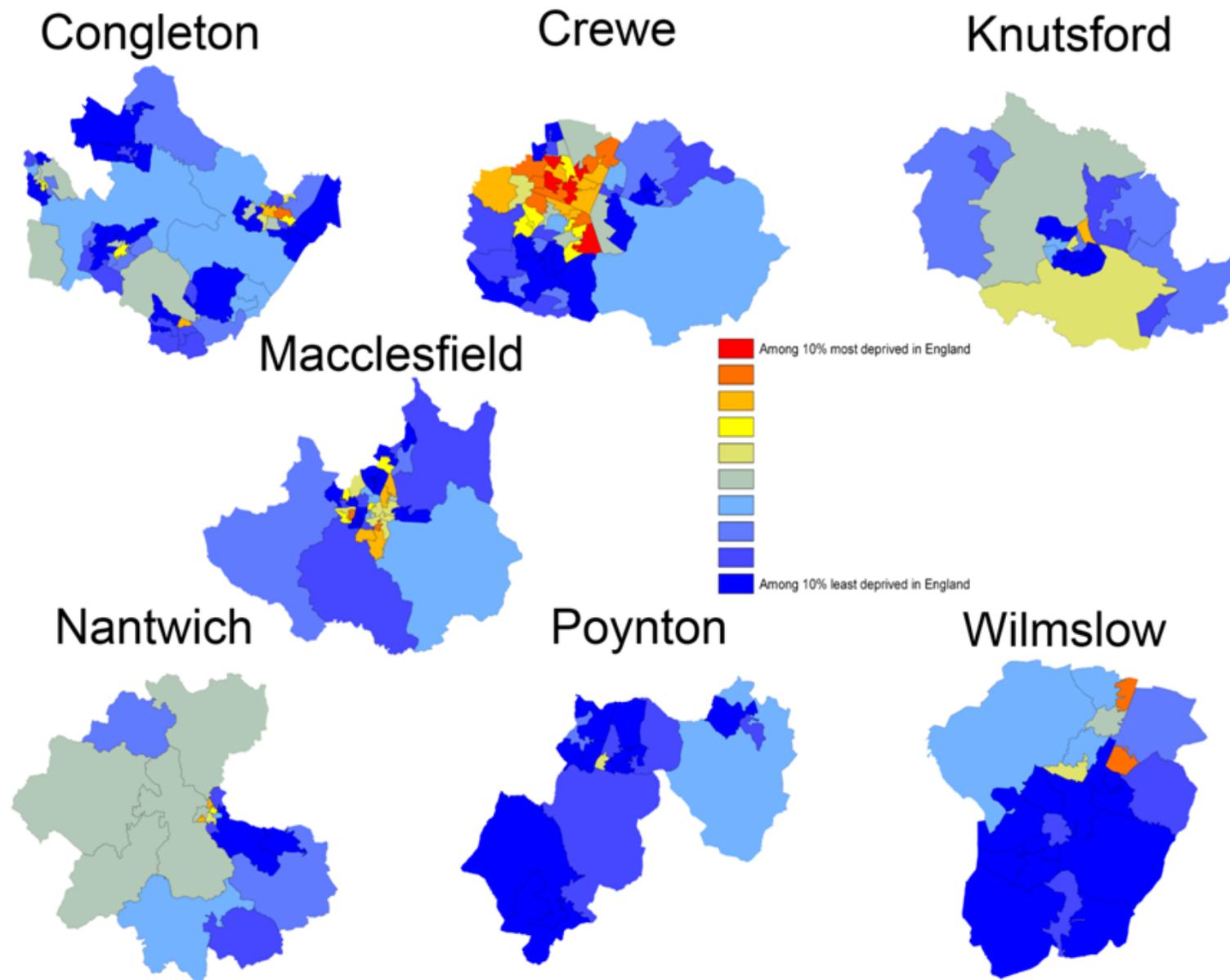
<sup>11</sup> December 2014, JSA Claimant Count, DWP and 2013 mid-year estimates, Office for National Statistics, NOMIS, Crown Copyright

<sup>12</sup> 2013/14 Paycheck, CACI Ltd. Figures are median values

<sup>13</sup> Lower Super Output Areas

<sup>14</sup> Indices of Deprivation 2007 and 2010, Department for Communities and Local Government with mid-year population estimates, 2013, Office for National Statistics

Figure 3 Deprivation by LAP, Index of Multiple Deprivation 2010



Source: IMD 2010, DCLG.  
© Crown copyright and database rights 2012. Ordnance Survey 100049045.

## Health

In the 2011 Census, 17.5% of residents reported they had a long term problem or disability which limited their day to day activities, an increase from 16.7% in 2001<sup>15</sup>. In a recent survey of the Council’s Citizens Panel, 74% of respondents described their general health as ‘good or very good’ and 5% described it as ‘bad or very bad’<sup>16</sup>.

Life expectancy (LE) in Cheshire East is higher than regional (North West) and the national (England & Wales) averages. LE at birth for females is 83.6 years, compared to 81.8 years in the North-West and 83.1 years nationally<sup>17</sup>. LE at birth for males is 80.4 years, compared to 78.0 in the North West and 79.4 nationally.

There is a noticeable difference within the female population of around 14 years between the lowest rates in Central & Valley (Crewe) and the highest in Macclesfield Town Tytherington<sup>18</sup>. For males, there is an 11 year gap between the lowest rates in Alexandra and Crewe and the highest in Wilmslow Town South West.

**Figure 4: Male and Female Life Expectancy at birth<sup>19</sup>**



Smoking rates are generally relatively low. An estimated 16.6% of the adult population are current smokers, which is lower than the North West (23.6%) and England (22.2%). Rates vary from 7.9% in Adlington & Prestbury to 34.3% in St Barnabas<sup>20</sup>.

Healthy eating rates are relatively high, with an estimated 31.4% regularly consuming their ‘5 a day’, higher than both the North-West average (26.2%) and England (28.7%).

<sup>15</sup> 2001 and 2011 Census, Office for National Statistics, Crown Copyright

<sup>16</sup> Autumn 2011 Survey, InfluenCE, Cheshire East Research and Consultation Team

<sup>17</sup> Life expectancy at birth and at age 65 by local areas in England and Wales, 2011-13, Office for National Statistics. National refers to the figure for England

<sup>18</sup> Life Expectancy at Birth for MSOAs, 2006-10, Department for Health

<sup>19</sup> Life Expectancy at Birth for MSOAs, 2006-10, Department for Health

<sup>20</sup> 2006-08 Estimates of Adults' Health and Lifestyles, Office for National Statistics (ONS)

## Education

The qualification levels of working age residents in the Borough (aged 16-64) is high. An estimated 31% have a degree level qualification or equivalent and above, much higher than the North West (21%) and England & Wales (25%)<sup>21</sup>. Conversely, the proportion of residents with no qualifications (9%) is lower than the region (12%) and nationally (11%).

## Prevalence of Licensed Gambling Premises

There are a total of 30 licensed gambling premises in Cheshire East, broken down into the following categories:

Town	Type	Number
Betchton (M6 Services)	Adult Gaming Centre	2
Crewe	Adult Gaming Centre	2
Macclesfield	Adult Gaming Centre	1
<b>Total</b>		<b>5</b>

Town	Type	Number
Congleton	Betting Shop	2
Crewe	Betting Shop	9
Handforth	Betting Shop	1
Knutsford	Betting Shop	1
Macclesfield	Betting Shop	4
Middlewich	Betting Shop	1
Nantwich	Betting Shop	1
Sandbach	Betting Shop	1
Wilmslow	Betting Shop	3
<b>Total</b>		<b>23</b>

Town	Type	Number
Crewe	Bingo	2
<b>Total</b>		<b>2</b>

There are no casinos and no licensed family entertainment centres.

The largest number of licensed premises are in the towns of Crewe and Macclesfield

<sup>21</sup> Annual Population Survey January 2011 – December 2011, Office for National Statistics, Crown Copyright

## Conclusion

According to NatCen's British Gambling Prevalence Survey of 2010 the rates of problem gambling in the general population are 0.9% and 0.5% (depending on the measures used). This would equate to a problem gambling population in Cheshire East of 33,543 and 18,635.

According to information available from the Gambling Commission there are 13,489 licensed gambling premises in the UK.

The number of licensed betting premises has decreased significantly. This decreased predated any economic impacts of the coronavirus pandemic in 2020 and 2021. And may link to the Government's decision to change the law relating to fixed odds betting terminals. The increase in use of online gambling facilities may also be a factor.

Whilst gambling is prevalent across the country this prevalence appears to be concentrated in the main city areas and primarily in the London Boroughs.

As the persons most at risk from problem gambling are white, young males from a low income background this is most likely to affect the residents of Crewe and to a lesser extent Macclesfield. These are also the areas that already have the highest numbers of licensed gambling premises. It will therefore be incumbent upon applicants to demonstrate that they will take appropriate steps to follow the Gambling Commission's relevant Codes of Conduct and the Council's Statement of Gambling Principles to ensure that no one is exploited or harmed by gambling.

## Summary of gaming machine categories and entitlements

Category of machine	Maximum stake (from April 2019)	Maximum prize (from Jan 2014)
A	Unlimited - No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£2	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D - non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D - non-money prize (crane grab machine)	£1	£50
D - money prize (other than a coin pusher or penny falls machine)	10p	£5
D - combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D - combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

\* With option of max £20,000 linked progressive jackpot on premises basis only

## Summary of machine provisions by premises

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines. Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines. Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by pool betting			Maximum of 4 machines categories B2 to D (except B3A machines)				
Bingo premises				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**	No limit on category C or D machines		
Adult gaming centre				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**	No limit on category C or D machines		
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)						No limit on category D machines	
Clubs or miners' welfare institute (with permits)					Maximum of 3 machines in categories B3A or B4 to D*		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises (with gaming machine permit)						Number of category C-D machines as specified on permit	
Travelling fair						No limit on category D machines	

\* It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

\*\* Adult gaming centre and bingo premises are entitled to make available a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available four (adult gaming centre premises) or eight (bingo premises) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centre premises and bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only, but not B3A machines.

### Summary of gaming entitlements for clubs and alcohol-licensed premises

	Members' club or MW institute with club gaming permit	Bridge or whist club	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit or club machine permit	Pubs and other alcohol licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 per week £250 per day £10 per person per game Other gaming No limit	Poker £1000 per week £250 per day. £10 per person per game Other gaming No limit	Poker £100 per premises per day. Other gaming £5 per person per game Cribbage & dominoes No limit
Limits on prizes	No limit	No limit	Poker £250 per game Other gaming No limit	Poker £250 per game Other gaming No limit	Poker £100 per game Other gaming No limit
Maximum participate on fees – per person per day	Bridge and/or whist* £20 Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge and/or whist* £18 Other gaming £3 (commercial club) £1 (members' club)	Bridge and/or whist* £18 Other gaming £1	None permitted
Bankers or unequal chance gaming	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
Limits on bingo	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	No bingo permitted	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.

\* On a day when no other facilities for gaming are provided

## TABLE OF DELEGATION OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate		X (Full Committee)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice and occasional use notices			X
Decision to give a counter notice to a temporary use notice		X	

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## Appendix 2

### Summary of logged changes to the Statement of Gambling Principles

<b>Paragraph</b>	<b>Type of change</b>	<b>Change</b>
3.1	Additional wording	The 2010 survey remains the most current survey conducted by NatCen.  NB previous studies were undertaken in 2007 and 1999
3.7	Updated data	Data updated to reflect the GamCare Annual Review 2020/2021
3.8	Change in wording	Changes in tense
3.10	New paragraph	Update on the pilot project (existing para 3.10 moved to 3.11)
Area Profile	Changes to data and update in conclusions	Changes the number and location of licensed premises. Additional paragraph referencing the decrease in the number of licenced premises in the Borough.

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Working for a brighter future together

## Environment and Communities

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<b>Date of Meeting:</b>	10 November 2022
<b>Report Title:</b>	Corporate Enforcement Policy Review
<b>Report of:</b>	Jayne Traverse, Executive Director - Place
<b>Report Reference No:</b>	EC/13/22-23
<b>Ward(s) Affected:</b>	All

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### 1. Purpose of Report

- 1.1. The purpose of this report is to seek approval of the updated Corporate Enforcement Policy. Following approval, the Policy will be published on the Cheshire East website and implemented by the various enforcement teams within the Council either as a stand-alone document or in conjunction with a relevant Service Specific Policy.
- 1.2. This approach accords with the Councils 2021-2025 Corporate Plan contributing to our strategic aim to *provide strong community leadership and work transparently with our residents, businesses, and partners to deliver our ambition in Cheshire East*. In addition, it supports our objective to *ensure that there is transparency in all aspects of council decision making*.

### 2. Executive Summary

- 2.1 The Cheshire East Corporate Enforcement Policy was last updated and approved in October 2019. The 2019 Policy included a commitment for review within a three-year period which is now due.
- 2.2 This report seeks approval for an updated version of the Policy. A review has been undertaken to include consultation with all enforcement services across the Council.
- 2.3 Appendix 1 of the report presents the proposed 2022 Corporate Enforcement Policy developed as a result of consultation with enforcement teams across the Council.

**2.4** Appendix 2 provides an overview of the changes that have been made to the existing 2019 Policy. Although the majority of these are minor changes and predominantly improve wording or provide further clarity the Policy does now include more specific information in relation to Fixed Penalty Notices. Section 7.4.9 now includes specific details on our approach to the issue of FPN's to those between the age of 10-17 (minors).

**3. Recommendations**

**3.1.** That Environment and Communities Committee approves the updated Cheshire East Council Corporate Enforcement Policy contained as Appendix 1 to this report.

**4. Reasons for Recommendations**

**4.1.** There is a statutory requirement for Cheshire East Council to have an Enforcement Policy in respect of the regulatory services that it provides to residents and businesses.

**4.2.** The recommendations for approval a revised Corporate Enforcement Policy underpin the Councils strategic aims and objectives within the Corporate Plan 2021-2025 for a clear and integrated enforcement approach.

**4.3.** The recommendations also demonstrate our commitment to ensure that the Policy is reflective of our current enforcement priorities and our approach to enforcement activities.

**5. Other Options Considered**

**5.1.** No other options have been considered. The 2019 Corporate Enforcement Policy committed to a Policy review within a three-year period. The 2022 review process has included engagement with all enforcement teams across the Council and meets the needs of the review and update requirement.

Option	Impact	Risk
<p><b>Do nothing –</b> continue to operate to the 2019 Corporate Enforcement Policy</p>	<p>The Council would not fulfil its own requirement to review the Corporate Enforcement Policy within a 3-year period.</p>	<p>That the Council could leave itself open to challenge on the basis that the Policy is outdated and has not been subject to regular review or does not reflect all available enforcement options.</p>

## **6. Background**

- 6.1.** The government is committed to ensuring that regulation is not unduly burdensome to business and has provided clear principles on how local authorities should interact with those that they are regulating to encourage open and constructive relationships.
- 6.2.** These principles are laid down in the Regulators Code (the Code) which came into statutory effect on 6 April 2014.
- 6.3.** The key principles of the Code are that regulators should:
- Carry out their activities in a way that supports those they regulate to comply and grow.
  - Provide simple and straightforward ways to engage with those they regulate.
  - Base their regulatory activities on risk.
  - Share information about compliance and risk.
  - Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
  - Ensure their approach to their regulatory activity is transparent.
- 6.4.** Since the publication of the Code, successive Cheshire East Corporate Enforcement Policies have considered all existing guidance on enforcement available at the time to ensure that our activity is reflective of national requirements.
- 6.5.** This work has also led to the production of Service Specific Enforcement Policies which sit under the Corporate Policy and provide even greater clarity on our local enforcement approach. This has helped to remove ambiguity created by general guidance and therefore minimise unnecessary challenge.
- 6.6.** The 2019 Corporate Enforcement Policy committed to a review of the Policy on a three-year basis, a process which is now due.
- 6.7.** This review has been completed in consultation with all enforcement teams across the Council through the wider Enforcement Group that exists to discuss regulatory matters, share knowledge and improve consistency. This includes representatives from Environmental Health, Trading Standards & CCTV, Planning Enforcement, Building Control, Licensing, Housing, Antisocial Behaviour & Community Enforcement, Parking, Blue Badge, Public Rights of Way, Countryside and Highways.
- 6.8.** A review of legislation and guidance relating to enforcement activity has identified that these remain current with no updates required.
- 6.9.** In relation to enforcement options, the same overarching measures exist as within the 2019 Policy. It is the Service Specific Policies which provide more

granular detail on which measures are applicable to that service area based upon the legislation available to those undertaking enforcement.

- 6.10.** The most significant change to the Policy has been the inclusion of greater clarity around the issue of Fixed Penalty Notices (FPN) to minors i.e., those between 10-17 years old. The previous policy advised that the Council would comply with any current and relevant guidance when considering whether it was appropriate to issue an FPN in these circumstances. However, over time, guidance in this area has expanded to offer differing approaches, all of which have their merits, but which introduce opportunities for challenge to the actual approach taken. It has been necessary therefore to provide more specific detail on the approach that will be taken by Cheshire East.
- 6.11.** Paragraph 7.4.9 now outlines the Council's intended approach to the issue of FPN's to minors and relevant considerations when deciding whether an FPN is the most appropriate method, or an alternative sanction may be more suitable.
- 6.12.** Throughout the document there have also been a number of minor changes aimed at improving wording and increasing clarity.
- 6.13.** Appendix 1 provides the proposed updated 2022 Corporate Enforcement Policy.
- 6.14.** For ease, Appendix 2 provides a table of changes to the original 2019 Policy.

## **7. Implications**

### **7.1. Legal**

- 7.1.1.** The objective of any enforcement policy is to support the underlying mechanism for enforcement set out in legislation and a formal policy is required to ensure that our principles and approach to enforcement are clear and transparent.
- 7.1.2.** The Corporate Policy provides for a consistent overarching enforcement approach across the Council supplemented by Service Specific Policies as appropriate. Officers will have regard to the Policy when dealing with issues of legislative non-compliance to ensure that matters are dealt with fairly and proportionately.
- 7.1.3.** The existence of a Policy provides the public and business operators with clear guidance as to how we approach enforcement matters and can provide the opportunity for constructive engagement prior to any enforcement action being taken.
- 7.1.4.** Whilst certain enforcement action would not be deemed unlawful without the existence of a formal policy, other enforcement legislation is prescriptive in its expectations of the Council and its policies.

7.1.5. Failure to adopt an Enforcement Policy may leave the Council open to legal challenge and place the Council at risk of reputational damage.

## 7.2. Finance

7.2.1. Implementing this Policy will incur staff costs that are already covered by base budgets within the relevant service areas.

7.2.2. Some enforcement activities incur a charge designed to solely recover the cost of the enforcement action taken and are recoverable from those subject to the enforcement activity. Some charges are set by statute whilst others are determined by the Council and must demonstrate financial transparency in how they are evaluated.

7.2.3. It is not possible to recover all costs associated with enforcement activity and in these circumstances, there will be pressure on existing service budgets if these additional costs cannot be absorbed.

## 7.3. Policy

7.3.1 The Council's Corporate Plan 2021-2025 sets out our vision for a more open, fairer, greener Cheshire East. The Plan includes the aim of a thriving and sustainable place, with a priority of welcoming, safe and clean neighbourhoods. In some circumstances it will be necessary to engage in enforcement activities to achieve this vision.

7.3.2 This policy will therefore ensure that there is transparency in our decision-making processes around enforcement and where we seek compliance with legislation to achieve our strategic aims and objectives.

## 7.4. Equality

7.4.1. The Corporate Enforcement Policy aims to outline a transparent and consistent approach to enforcement across Cheshire East. Therefore, there are no equality implications resulting from its adoption and implementation.

7.4.2. Reference has been made within the Policy of our aims and objectives in relation to Equality, Diversity and Inclusion including links to relevant documents.

## 7.5. Human Resources

7.5.1. Those services that undertake enforcement activity have an ongoing commitment to ensuring that all officers engaged in enforcement activities are suitably trained and supported. This is dealt with through the formal appraisal process and the identification of specific training with the service training plan.

## 7.6. Risk Management

7.6.1. Failure to adopt the Regulators Code and Enforcement Policy can increase the risk of legal challenge and adverse scrutiny. Care has been taken to

ensure that the Policy strikes a balance between enabling individuals and businesses to understand our enforcement approach but without constraining our enforcement options. If a policy is too restrictive then this could be detrimental to fair and effective regulation.

**7.6.2.** There is a reputational risk to the Council by not having a transparent and robust approach to enforcement.

**7.6.3.** Once adopted, failure to comply with one’s own Enforcement Policy could be open to legal challenge as an abuse of process.

**7.7. Rural Communities**

**7.7.1.** There are no implications for rural communities.

**7.8. Children and Young People/Cared for Children**

**7.8.1.** The updated Corporate Enforcement Policy now provides specific information on our approach to the issue of Fixed Penalty Notices to juveniles (those aged 10-17). This approach is based on general guidance issued by Defra that has been tailored to address the needs of Cheshire East Council and considers consultation comments provided by the Youth Justice Service as part of the policy review.

**7.8.2.** The issue of FPN’s to juveniles is not without due consideration and the Policy identifies those matters that may be taken into account during this process and where it will be appropriate to liaise with external agencies such as Youth Justice Services or the relevant Early Help and Children’s Services.

**7.9. Public Health**

**7.9.1.** There are no implications for public health although regulatory activity covered by this Policy may have a direct or indirect positive impact upon public health.

**7.10. Climate Change**

**7.10.1.** The Council has committed to becoming Carbon neutral by 2025 and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint. There are no implications for climate change although regulatory activity covered by this policy may have a positive impact upon the carbon emissions.

<b>Access to Information</b>	
Contact Officer:	Tracey Bettaney, Head of Regulatory Services <a href="mailto:tracey.bettaney@cheshireeast.gov.uk">tracey.bettaney@cheshireeast.gov.uk</a> 07814 369267
Appendices:	Appendix 1 Corporate Enforcement Policy 2022 Appendix 2 Summary of changes

Background Papers:	<a href="#">Cheshire East Enforcement Policy</a> October 2019
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# **Corporate Enforcement Policy**

## **November 2022**

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# Cheshire East Council – Enforcement Policy

## 1.0 Background

- 1.1 This document sets out what businesses, landowners, tenants and others being regulated can expect from Cheshire East Council ('The Council') and its Enforcement Officers.
- 1.2 It commits the Council to good enforcement practice with effective procedures and clear policies.
- 1.3 The Council has an existing Enforcement Policy that was approved in November 2019. This new Policy provides an update and refresh of the 2019 version and was approved by Environment and Communities Committee on 15 November 2022
- 1.4 Our policy does not aim to provide a 'one size fits all' approach to enforcement across the wide range of regulatory services but is more of a general overarching view of how the Council and its Officers will undertake regulatory and enforcement action as part of their day-to-day work. Enforcement action will, in the main, follow the 4 E's approach of Engage, Educate, Encourage and Enforce, unless specific circumstances dictate otherwise.
- 1.5 It also takes into account the subtle differences in regulatory approach between the various service areas by providing links to specific local enforcement policies which will be useful for businesses and individuals. Where there is a conflict between this general policy and any service specific enforcement policies, the service specific policy will take precedence.

## 2.0 Scope and Meaning of Enforcement

This Policy applies to all the legislation enforced by Officers with delegated enforcement powers employed by the Council.

'Enforcement' includes any criminal or civil action taken by the Council aimed at ensuring that individuals or businesses comply with the law.

The term 'enforcement action' has been given a general statutory definition, which is:

- (a) Action to secure compliance with a restriction, requirement or condition in relation to a breach or supposed breach.
- (b) Action taken in connection with imposing a sanction for an act or omission; and
- (c) Action taken in connection with a statutory remedy for an act or omission.

'Enforcement Officer' includes any individual who has been duly authorised by the Council under the terms of the Cheshire East Council Constitution and/or scheme of Officer

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delegations to undertake 'Enforcement' and 'Enforcement Action' in accordance with paragraphs (a)-(c) above.

### **3.0 What Guides Our Enforcement Approach?**

#### **3.1 The Principles of Good Regulation**

The Legislative and Regulatory Reform Act 2006 requires every local authority to have regard to the five Principles of Good Regulation when carrying out specific regulatory functions.

1. Proportionate

Our activities will reflect the level of risk to the public and enforcement action will relate to the seriousness of the offence.

2. Accountable

Our activities will be open to public scrutiny, with clear and accessible policies, and a fair and efficient complaints procedure.

3. Consistent

Our advice to those that we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.

4. Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.

5. Targeted

We will focus our resources on higher risk enterprises and activities, reflecting both local need and national priorities.

#### **3.2 The Regulators' Code 2014<sup>1</sup>**

The Council has had regard to the Regulators' Code in the preparation of this policy. This provides for an efficient and effective approach to all Council regulatory inspection and enforcement functions to improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations and the Council itself.

However, in certain circumstances we may determine that a provision of the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, documented and based on material evidence.

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<sup>1</sup> [Regulators' Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

### **3.3 Human Rights Act 1998**

The Council is a public authority for the purposes of the Human Rights Act 1998. This Policy and all associated enforcement decisions therefore take account of the provisions of the Human Rights Act 1998. We therefore apply the principles of the European Convention for Human Rights and Fundamental Freedoms and in particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

### **3.4 Data Protection Act 2018 and General Data Protection Regulations 2018 (GDPR)**

Where there is a need for Cheshire East Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 2018 and General Data Protection Regulations 2018 (GDPR) and in line with the Council's Data Protection Policy.

### **3.5 The Code for Crown Prosecutors<sup>2</sup>**

When deciding whether to prosecute, the Council will have regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test'.

1. Evidential Test: Is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, the Council will consider what evidence can be used in court and whether it is reliable and credible. We must be satisfied there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. As part of this assessment we need to consider the impact of any defence or any other information that may be put forward or relied upon by the defendant.

2. Public Interest Test: Is it in the public interest for the case to be brought to court?

The Council will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The following public interest criteria will normally be considered when deciding on the relevance of legal proceedings, although this list is not exhaustive.

- The seriousness of the offence committed.
- The level of responsibility of the suspect.
- The circumstances of and the harm caused to the victim or community.
- The past and current performance or actions of any business and/or individual concerned.

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<sup>2</sup> [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk)

- A person's age in relation to young people (termed 'juveniles') aged under 18.
- The impact on the community.
- Statutory requirements, guidance or Codes of Practice.
- Legal advice.
- Whether prosecution is a proportionate response.
- The need to protect sources of information.

### **3.6 Regulatory Enforcement and Sanctions Act 2008**

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a Primary Authority relationship and, in those circumstances, will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

Under this Act we may also refer the matter to the Office for Product Safety & Standards (OPSS) who are responsible for nominating partnerships, issuing guidance, and resolving determinations.

## **4.0 Which functions operate in accordance with this Enforcement Policy?**

This policy relates to all Council services that operate a regulatory function within or on behalf of the Council.

Some examples of service areas that have a role to enforce legislation include;

- Environmental Health (food safety, health and safety, environmental protection, public health)
- Licensing (alcohol, hackney carriage & private hire, street trading)
- Animal Health and Welfare (farmed animal health, animal boarders and breeders, zoos, riding schools)
- Trading Standards (doorstep crime and scams, fraud, counterfeiting and intellectual property, underage sales, weights and measures, food standards, product safety)
- Safety of Sports Grounds
- Financial Investigations (Proceeds of Crime)
- Housing (housing conditions, licensing of houses in multiple occupation, empty homes, harassment and illegal eviction)
- Unauthorised Gypsy and Traveller encampments

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- Planning Enforcement
- Building Control
- Waste & Litter
- Antisocial Behaviour
- Parking Services
- Blue Badge Scheme
- Public Rights of Way and Countryside Ranger Service
- Highways

Please note that this list is not exhaustive and refers to the 'traditional' name of the service area/function for simplicity.

## **5.0 Who does this Enforcement Policy affect?**

- 5.1 This policy provides a framework for Council employees, Members and contractors whilst they are carrying out their day-to-day duties. It is also designed to provide an overview of the Council's approach and general operating principles to those who might be affected by its use; this would include members of the public, commercial businesses and voluntary organisations.
- 5.2 This policy is also applicable where the Council is the 'Enforcing Authority' for its own premises. In such instances steps are taken to ensure that enforcement decisions are free from any conflict of interest. In particular, any serious breaches of legislation would be brought to the attention of the Head of Service and Senior Management Team without delay.

## **6.0 Evidence Gathering during an Investigation**

- 6.1 Regulatory bodies are empowered to gather evidence by various means and as part of any ongoing investigation. This can include overt methods where the subject is aware of the investigation or, where appropriate, covert methods where the subject is unaware.
- 6.2 Where the Council undertakes to gather information covertly then they will have regard to the procedures and protocols laid down within the Regulation of Investigatory Powers Act 2000 (RIPA), Investigative Powers Act 2016 and the Protection of Freedoms Act 2012 as applicable. The Council has a corporate application and authorisation process for the use of these specific measures in addition to the use of Privacy Risk Assessments. These processes are monitored by senior Officers of the Council.
- 6.3 As part of any investigation, and to support decisions around the need for further action, a wide variety of evidence and intelligence will be gathered; this may include

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information from other agencies such as those listed in Section 10. This will take into consideration any statutory process or formal data sharing agreements.

- 6.4 Evidence that is gathered as part of an investigation may be retained indefinitely and/or in accordance with established data retention policies. In certain circumstances the Council may seek to destroy equipment or goods that have been seized as part of an investigation, for example where there is a potential risk to health. This will take into consideration any statutory process.
- 6.5 In gathering evidence the Council routinely undertake recorded investigative interviews. These are carried out in accordance with the Police and Criminal Evidence Act 1984 and associated Codes of Practice and seek to provide an individual or business with the opportunity to provide their version of events as part of an ongoing investigation.
- 6.6 Attendance in person at an interview under caution is expected on the grounds of gathering complete evidence and to maximise the efficiency of the investigation process.
- 6.7 Failure to assist an investigation or the act of obstructing an Officer is an offence under many pieces of legislation used by enforcement agencies. The Council expect cooperation and may take action where appropriate, if this is not forthcoming.
- 6.8 In order to take enforcement action there needs to be sufficient supporting evidence to prove that there is a breach of legislation upon which enforcement action can be taken. In response to anonymous complaints or cases where there is no independent witness the Council will take a view as to whether they can take any further action or whether to retain the details purely for intelligence purposes. Factors that may be taken into account as part of this decision include the availability of corroborating independent evidence or whether evidence exists that undermines the case.

All investigations will be carried out lawfully having regard to the following legislation (as amended) and in accordance with any associated guidance or Codes of Practice, in so far as they relate to the Council:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigation Act 1996
- Regulation of Investigatory Powers Act 2000
- Investigative Powers Act 2016
- Criminal Justice and Police Act 2001
- Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

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## **7.0 What does enforcement look like?**

- 7.1 The primary objective of enforcement is to achieve regulatory compliance in order to protect the public, legitimate business, the environment, and groups such as consumers and workers. However, we reserve the right to take action in some cases even after compliance has been achieved where we believe it is in the public interest to do so and where doing so may better meet local priorities and circumstances.
- 7.2 The Council is committed to working with its local residents, businesses and volunteer communities to provide practical and proactive help and advice to all parties to assist them to achieve compliance with the law.
- 7.3 If a resident or business operator chooses not to act on advice, an enforcement intervention should be expected. Similarly, the Council is committed to taking firm action against those that deliberately or persistently fail to comply with legislation and where this is considered appropriate.
- 7.4 Where non-compliance is identified then the Council will seek compliance through a combination of promotion, compliance advice, guidance and support, regularisation, informal warning and formal enforcement action.

### **7.4.1 Promotion**

This typically involves a push of information to residents and businesses about specific matters of legislation. This is usually achieved by methods such as direct correspondence, press releases, face to face contact and website information.

### **7.4.2 Compliance Advice, Guidance and Support**

The Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses to rectify breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. If a similar breach is identified in the future, this advice will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such advice cannot be cited in court as a previous conviction, but it may be presented in evidence. Failure to comply could result in an escalation of enforcement action.

The Council recognises that where a business has entered into a partnership with a Primary Authority, the Primary Authority will provide compliance advice and support, and the Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the Primary Authority in accordance with the Regulatory Enforcement and Sanctions Act 2008.

### **7.4.3 Informal Warnings**

This method is used in circumstances where there has been a breach of legislation, usually minor, and where it is not thought appropriate to take more formal action. In these cases, the remedy may be simple and easily achieved following a written or verbal warning. In some

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cases, a warning can be challenged by the recipient and a review by a senior Officer can be requested. Where this is the case information on how to make a challenge will be included with the details of the warning and in line with individual service procedures.

#### **7.4.4 Formal Enforcement**

This includes a wide variety of sanctions including statutory (legal) notices, written undertakings, the refusal to grant or the revocation of an existing licence or registration, fixed penalty notices, powers of seizure and detention, cautions and prosecution. Formal enforcement action is taken in line with corporate procedures and having regard to Codes of Practice and professional guidance notes. Formal enforcement action also extends beyond the prosecution process as the Council may apply for further post-conviction sanctions.

#### **7.4.5 Statutory (legal) Notices**

Many pieces of legislation enforced by the Council provide for the service of statutory notices to seek compliance with legal requirements. A statutory notice will require a person, business or organisation to comply with specific legal requirements, usually within a specified time period. A notice shall explain what legislation has been breached, how to comply with the notice and the consequences of not complying with a notice. Notices will be accompanied by any relevant appeal information.

In general, failure to comply with a notice makes the person or business named in the notice liable for prosecution. Further, the Council may, in some cases carry out the works identified within the notice and recover costs from the recipient of the original notice (work in default). Prosecution and work in default may run in parallel.

#### **7.4.6 Written Undertakings (Voluntary and Formal)**

Where an individual or organisation persistently fails to comply with the law, the Council may seek a written undertaking from that person that they will cease the action causing the breach. If appropriate and proportionate, this action may preclude the need for further formal action whilst the agreement is met.

Failure by an individual or business to agree to a written undertaking or, breach of agreement in the case where an agreement is in place, can lead to further formal action being taken by the Council in accordance with the relevant legal provisions.

#### **7.4.7 Injunctions/ Enforcement Orders etc. and other civil sanctions including financial and civil penalties**

In certain circumstances the Council may consider it necessary or expedient to seek a direction from the court (in the form of an order or an injunction) to control behaviour or an activity. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place. Injunctions are orders of the court, breach of which are punishable as a contempt of court by imprisonment or a fine.

Where applicable legislation permits the Council may also seek civil sanctions including financial and civil penalties.

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#### **7.4.8 Seizure proceedings**

Certain legislation enables authorised Officers to seize goods, for example, unsafe food, sound equipment that is being used to create a statutory noise nuisance, unsafe products or any goods or documents that may be required as evidence for possible future court proceedings.

#### **7.4.9 Fixed Penalty Notices**

A Fixed Penalty Notice may be used as a means of dealing with a low-level offence instead of prosecution action and enables a defendant to avoid a criminal record by discharging their liability to a prosecution for the original offence. Certain lower-level offences such as littering, dog fouling and smoking in prohibited places are subject to Fixed Penalty Notices and they enable the offender to discharge their liability and avoid a criminal record.

The Council will comply with any current relevant guidance on the use of Fixed Penalty Notices.

- a) There must be sufficient evidence to give a realistic prospect of conviction; and
- b) The offence is not so serious as to warrant a prosecution and is of a nature suitable for being dealt with by a Fixed Penalty Notice.

Where an adult recipient does not pay the penalty offered or is a repeat offender there will be a presumption that prosecution may follow in relation to the actual offence.

#### **The Issue of FPN's to Juveniles**

- Juveniles under the age of 10 years

An FPN cannot and will not be issued to a juvenile under the age of 10 years.

Where an offence has been committed, the young offenders name, address and age shall be ascertained, together with that of their parents or legal guardian. The young offender will be informed that the offence will be shared with the local Youth Justice Service and relevant Early Help and Children's Services for their information in accordance with the Data Protection Act 2018.in accordance with the Data Protection Act 2018.

- Juveniles aged between 10 and 15 years

Young people aged between 10 and 15 years will not be issued with an FPN. The young offenders name, address and age shall be ascertained, together with that of their parents or legal guardian. The young offender will be informed that the offence will be shared with the local Youth Justice Service and relevant Early Help and Children's Services for their information in accordance with the Data Protection Act 2018.

- Juveniles aged between 16 and 17 years

In certain circumstances, an FPN can be issued to a young person between the age of 16 and 17 in accordance with the procedure for adults. Further information of any considerations

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around the issuing of FPN's to 16–17-year-olds will be detailed within the relevant Service Specific Enforcement Policies.

Before the issue of the FPN the following factors shall be considered;

- (a) Whether an FPN been issued previously
- (b) Whether a warning, or preventative intervention more appropriate
- (c) Whether there are family circumstances or other vulnerabilities
- (d) Whether there is evidence of mental incapacity
- (e) Whether the individual is demonstrating any signs of substance abuse

In all cases, the Youth Justice Service, relevant Early Help and Children's Services should be liaised with, and the parent/guardian of the young person will also be informed either in person or in writing.

If the Authorised Officer is in any doubt regarding the age of a young offender, then the procedures set out for those individuals between the ages of 10 and 15 will be applied.

#### **7.4.10 Penalty Charge Notices**

Penalty Charge Notices are issued in relation to contraventions of parking restrictions whereby an individual pays an amount of money as a consequence of the breach.

The method and circumstances for issuing a Penalty Charge Notice is prescribed by specific legislation.

Failure to pay a Penalty Charge Notice may ultimately result in the individual being pursued by enforcement agents where their fees will also apply.

The notices issued are no longer breaches of criminal law enforceable through the criminal justice system, but instead 'Penalty Charge Notices' (PCN's) are a debt owed to the Council, enforceable through the civil justice system.

#### **7.4.11 Revocation, suspension and withdrawal of licences and permits**

Where the Council has issued a permit, approval, licence or other form of permission, removal of that permission in line with the relevant guidance or legislation can be considered as an enforcement remedy. This action does not preclude further parallel formal enforcement action by the Council for the same offence e.g., the instigation of prosecutions proceedings.

When considering future licensing applications, the Council may take previous breaches and enforcement action into account.

#### **7.4.12 Forfeiture Proceedings**

This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the marketplace or being used to cause a further problem. The Council may seek an order of the court for forfeiture of goods

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it has seized either as part of criminal investigations or during the exercise of its enforcement functions.

#### **7.4.13 Simple Caution**

As an alternative to prosecution and in appropriate circumstances a simple caution may be considered as a means of formal enforcement action. A caution is not a criminal conviction, but it will form part of an offender's criminal record and may be referred to in any subsequent proceedings.

For a caution to be issued the following criteria must be met:

- a) There is sufficient evidence to provide a realistic prospect of conviction and it is in the public interest to caution;
- b) There has been a reliable admission of guilt by the offender; and
- c) The offender is over 18 years of age.

Consideration will be given to the Ministry of Justice - Simple Caution for Adult Offender guidance (MoJ Guidance).<sup>3</sup>

The refusal of an offender to be cautioned does not preclude the matter being passed for prosecution. In fact, any such failure will be material consideration when deciding whether the offender should then be prosecuted for that offence.

#### **7.4.14 Prosecutions**

The Council will consider a prosecution when:

- a) It is appropriate in the circumstances as a way to draw attention to the need for compliance with the law, especially where there would be a normal expectation of a prosecution, or where;
- b) Through the conviction of offenders, others may be deterred from offending; or
- c) There is potential for considerable harm arising from the breach; or
- d) The gravity of the offence, taken together with the general record and approach of the offender justifies it.

The decision to prosecute will always consider the criteria set down in the Code for Crown Prosecutors (section 3.5). The Council will use discretion in deciding whether to initiate a prosecution and may do so without prior warning taking place.

#### **7.4.15 Proceeds of Crime**

There are some cases where an application under the provisions of the Proceeds of Crime Act is considered appropriate. This seeks to confiscate assets from an offender in order to recover the financial benefit they have gained during the course of their criminal activities.

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<sup>3</sup> [Simple Cautions guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

Where such an approach is considered then the Council will seek the advice of an Accredited Financial Investigator at the earliest opportunity so that a parallel financial investigation can be undertaken.

There is a defined timescale for the application to proceed with confiscation; it must be made after conviction but prior to any sentencing.

#### **7.4.16 Charges**

Certain enforcement activities incur a charge designed to solely recover the cost of the enforcement action taken and are recoverable from the offender or perpetrator. Some charges are set by statute whilst others are determined by the Council and must demonstrate financial transparency in how they are calculated.

The Council also has the power to apply interest charge rates to any expense it incurs in the course of enforcement action including works in default. Such charges will be applied with regard to advice provided by financial services.

#### **7.4.17 No Action**

In certain circumstances, contravention of the law may not warrant formal action by the Council. In making this decision the Council may take the following factors into consideration to help provide transparency to the agreed approach.

- Whether the cost of compliance to the offender outweighs the detrimental impact of the contravention (the harm).
- Whether the cost to the Council to take any required enforcement action outweighs the detrimental impact of the contravention on the local community.
- The availability of sufficient evidence to proceed with action.
- Whether it is in the public interest to proceed with formal action.

### **8.0 How do we determine the most appropriate enforcement action?**

8.1 The Council will carry out its duties in a fair and consistent manner. Whilst Officers are expected to exercise judgement in individual cases the Council has formal documented arrangements in place to review proposed enforcement actions in the more serious cases and local schemes for officer delegation. This could include an internal case review and discussion on whether the proposed action is the most suitable means of achieving compliance.

8.2 As part of its decision making process, the Council may also consider the role of supplementary decision making policies and tools that are available across the wide range of regulatory functions; this could include the use of the HSE Enforcement Manager Model, Codes of Practice or the role of Primary Authority protocols etc.

8.3 Where there is a shared enforcement role with other local authorities and/or enforcement agencies, the Council will ensure that effective liaison and consultation

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takes place to ensure that the needs of all parties are considered and to help achieve the best outcome from formal enforcement action.

## **9.0 What can you expect from your enforcing Officer/Council?**

- 9.1 All Officers engaged in enforcement functions are appropriately trained and authorised in line with the provisions of the Cheshire East Council Scheme of Delegation to ensure the highest standards of service delivery.
- 9.2 Authorised Officers will carry out their enforcement activities in accordance with the principles of this Policy and the requirements of the particular legislation and other Council Policy under which they are acting and any associated guidance or Codes of Practice.
- 9.3 The Council believes that prevention, including education, is better than cure and encourages businesses and individuals to seek advice on matters that they are unsure of, without fear that this may trigger direct enforcement action. In return the Council will be clear about issues that constitute direct non-compliance with legislation and those matters which are examples of good practice. Where appropriate, advice and guidance may be followed up by dedicated compliance checks or may form part of any routine inspection programme.
- 9.4 The Council will endeavour to provide information and advice in plain language. The Council will discuss general issues, individual compliance failures or problems with anyone experiencing difficulties should it be requested. To support this, the Council will identify a point of contact in any correspondence that it issues.
- 9.5 The Council will have regard to the challenges faced by individuals and businesses, particularly small businesses. It will ensure that any action it requires is proportionate and balanced against risk. As far as the law allows, the Council will take account of the individual circumstances of each case when considering action. This includes the seriousness of the offence, past history, confidence in management, the consequences of non-compliance and the likely effectiveness of the various enforcement options.
- 9.6 A business or individual will be notified of any intended enforcement action as soon as possible, unless this could undermine an investigation or pose a safety risk to those concerned, the environment or the general public.
- 9.7 In cases where there is an imminent risk to health or the environment, enforcement action may be taken before any right of challenge can be heard.
- 9.8 The Council will provide information on how to challenge or appeal any enforcement decision as part of the enforcement action and where a statutory appeal process exists; where no statutory appeal process exists, guidance on how to challenge or make a representation is provided at the time the action is taken. In addition, the Council will also provide details of its formal complaints procedure for those wishing to use this approach.

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9.9 The Council will make businesses and individuals aware of the current Enforcement Policy through the website, direct correspondence or as part of day-to-day contact.

9.10 In certain circumstances we will seek to raise awareness and increase compliance levels by publicising unlawful trade practices or criminal activity. Where appropriate the results of specific court cases may also be published.

## **10.0 Which other agencies might we work with?**

10.1 The Council will aim to maximise its effectiveness by working with other authorities and other agencies to share intelligence and resources where it is lawful to do so. Where issues are identified that extend beyond the remit of one agency and into the role of another, then joint operations will be undertaken to maximise resources and improve any enforcement outcome.

Some examples of agencies that the Council might work with include.

- Police
- Environment Agency
- Rural Payments Agency
- Health and Safety Executive
- Food Standards Agency
- Fire Service
- HM Revenue and Customs
- DEFRA
- Animal Plant Health Agency
- Office for Product Safety & Standards
- Citizens Advice
- Department for Work and Pensions
- Department for Transport (DfT)
- Registered providers of social housing
- Other Local Authorities (particularly where a Primary Authority relationship exists)
- Other Enforcement Agencies as appropriate
- Youth Justice Service

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## 11.0 Equality and Diversity

The Council is committed to providing high-quality, customer focussed services for all people living, working, or visiting the area. Our aim is to make equality, diversity and inclusion an integral part of the way the Council works by putting it at the centre of everything that we do.

### 11.1 Cheshire East Council Corporate Plan

Promoting fairness and providing equality for all is an ambition in each of our strategic objectives as outlined in the Cheshire East Council Corporate Plan 2021-2025<sup>4</sup>. We want to ensure we are:

- Open – we provide strong community leadership and work transparently with our residents, businesses and partners to deliver our ambition in Cheshire East
- Fair – we aim to reduce inequalities, promote fairness and opportunity for all and support our most vulnerable residents
- Green – we will lead our communities to protect and enhance our environment, tackle the climate emergency and drive sustainable development.

### 11.2 Cheshire East Council Equality, Diversity and Inclusion Strategy

The Cheshire East Council Equality, Diversity and Inclusion Strategy 2021 – 2025<sup>5</sup> defines the equality objectives that we are working towards. These include:

- Expand our opportunities and methods of engaging with residents, partners and stakeholders to ensure that we are proactive and inclusive.
- Use and consider information including data and intelligence to inform our thinking and action.
- Support and promote community action and cooperation across our partnerships to improve cohesion.

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<sup>4</sup> [Corporate Plan 2021-2025](#)

<sup>5</sup> [Equality, Diversity and Inclusions Strategy 2021-2025](#)

## **12.0 Complaints, compliments and suggestions**

- 12.1 Complaints, compliments or suggestions on any aspect of the services the Council provides should be directed to the service area in the first instance.
- 12.2 If the Council's response to a complaint about the service fails to resolve the matter, then you may wish to lodge a formal complaint using our dedicated corporate complaint procedure.
- 12.3 For further details on how to register a complaint, compliment or suggestion, please see our web page detailed below.

[Customer feedback, compliments and complaints \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk)

- 12.4 Where a complaint is received about the conduct of an Officer then this will be investigated separately to run in parallel with the enforcement investigation; this will ensure that there is no unnecessary delay in the enforcement process.

## **13.0 Monitoring**

- 13.1 The Regulators' Code requires that the Council publish details of performance against the Enforcement Policy. This should include feedback from satisfaction surveys and data relating to complaints and appeals against enforcement decisions.
- 13.2 The Council will continue to use a variety of methods to share enforcement related information as and when appropriate. This may include data within general or specific performance reports to a relevant committee, through the completion of statutory returns, and in response to specific requests from interested parties.

## **14.0 Review of this enforcement policy**

- 14.1 This policy will be subject to a general review every three years. Where significant changes are required i.e., if there is a significant change to our enforcement approach then those changes will be subject to the formal approval process in place at that time.
- 14.2 If you have any queries regarding the content of this policy then please contact:  
  
Tracey Bettaney, Head of Regulatory Services.

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**Appendix 2                      Summary of changes**

<b>Paragraph Number</b>	<b>Change</b>
1.1	Includes new reference to landowners and tenants as specific groups to whom the policy applies.
1.3	Updated to outline the approval process for the 2022 version of the Policy.
1.4	Introduces the concept of the 4 E's as our standard approach to enforcement; Engage, Educate, Encourage and Enforce – with the caveat that specific circumstances may change that approach.
1.5	Simplified wording.
3.2	Updated to reference the year of the publication of the Regulators Code and provides a link to the document itself.
3.5	Updated reference to include a link to the Code for Crown Prosecutors. Improved and simplified wording. Inclusion of harm to the 'community' as well as individuals.
3.6	Additional information about the role of the Office of Product Safety and Standards.
6.3	Inclusion of statement that evidence from other agencies is gathered in line with statutory processes or formal data sharing agreements.
7.1	Simplified wording.
7.4.3	Wording change from 'Informal Warnings' to simply 'Warnings'. Additional information in relation to challenging a warning that has been issued.
7.4.9	Section updated to include our approach to the issue of Fixed Penalty Notices to Juveniles (10-17 year olds)
7.4.13	Inclusion of link to Ministry of Justice Guidance on Simple Cautions.
7.4.17	Simplified wording in relation to when a 'no action' decision might be taken.
11.0	Overhaul of the Equality and Diversity section to include reference to the Corporate Plan 2021-2025 and the Equality Diversity and Inclusion Strategy 2021-2025 including a link to both documents.
13.2	Updated information on our enforcement reporting approach.
14.0	Update on policy review mechanism.

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*Working for a brighter future together*

## **Environment and Communities**

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<b>Date of Meeting:</b>	10 November 2022
<b>Report Title:</b>	Regulatory Services Enforcement Policy Review
<b>Report of:</b>	Jayne Traverse, Executive Director - Place
<b>Report Reference No:</b>	EC/18/22-23
<b>Ward(s) Affected:</b>	All

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### **1. Purpose of Report**

- 1.1.** The purpose of this report is to seek approval of the updated Service Specific Enforcement Policy for Regulatory Services and Health. Following this the Policy will be published and implemented by the Team as part of enforcement activity.
- 1.2.** This approach accords with the Council's 2021-2025 Corporate Plan contributing to our strategic aim to *provide strong community leadership and work transparently with our residents, businesses, and partners to deliver our ambition in Cheshire East*. In addition, it supports our objective to *ensure that there is transparency in all aspects of council decision making*.

### **2. Executive Summary**

- 2.1** This report outlines the role of the Service Specific Enforcement Policy for Regulatory Services and Health and its link to the Cheshire East Corporate Enforcement Policy. It seeks approval for an updated version of the Policy.
- 2.2** The report advises Members that the 2019 Policy included a commitment for review within a three-year period of its approval and how this review has taken place within the discrete functional areas of Regulatory Services and Health.
- 2.3** The report confirms that there have been minimal changes to the Policy as part of this review and presents the proposed 2022 Policy as Appendix 1 with a summary of changes at Appendix 2.

### 3. Recommendations

- 3.1. That the Environment and Communities Committee approves the Service Specific Enforcement Policy for Regulatory Services and Health contained as Appendix 1 to this report.

### 4. Reasons for Recommendations

- 4.1. The recommendation to approve the revised Service Specific Policy fulfils the action within the Corporate Plan 2021-2025 for a clear and integrated enforcement approach with relevant fit for purpose policies for each enforcement services.
- 4.2. The recommendation also demonstrates our commitment to ensure that the Policy is reflective of our current enforcement priorities and our approach to enforcement activities.

### 5. Other Options Considered

- 5.1. No other options have been considered. The 2019 Service Specific Enforcement Policy for Regulatory Services and Health committed to a Policy review within a three-year period. The 2022 update has included a review across all five discrete functional areas of the service and meets the needs of the review and update requirement.

Option	Impact	Risk
<p><b>Do nothing –</b> continue to operate to the 2019 Service Specific Policy</p>	<p>The Council would not fulfil its own requirement to review the Service Specific Policy within a 3-year period.</p>	<p>That the Council could leave itself open to challenge on the basis that the Policy is outdated and has not been subject to regular review.</p>

### 6. Background

- 6.1. Regulatory Services and Health has a Service Specific Enforcement Policy that was approved in November 2019. At that time, and with the existence of the Cabinet structure of governance the Policy was approved by the Portfolio Holder for Communities with responsibility for the Regulatory Services and Health service. Changes to governance arrangements in 2021 require that this amended Policy be subject to approval by the Environment and Communities Committee.
- 6.2. Service Specific Enforcement Policies exist under the umbrella of the overarching Cheshire East Council Enforcement Policy. Their aim is to provide further clarity for those individuals or businesses subject to

enforcement action by a specific service including the scope of enforcement sanctions available.

- 6.3.** The 2019 Service Specific Enforcement Policy for Regulatory Services and Health committed to a review of the Policy on a three-year basis, a process, which is now due.
- 6.4.** Regulatory Services and Health is made up of five discrete functional areas and as part of this review each area has been involved in the review process to ensure any necessary updates or amendments were identified.
- 6.5.** Unlike the review that took place in 2019 which incorporated the transfer of new functions to Regulatory Services and Health, this review has produced very minimal updates. Changes are limited to improvements to wording to increase clarity, references to new methods of contact with the service as a result of website development work and the inclusion of details for the Office of Environmental Protection as a further recourse where an individual has exhausted the Council's complaint process.
- 6.6.** There is no statutory requirement to consult on draft or proposed revisions to enforcement policies. When consultation has been undertaken on similar policies previously, the response rate has been low. By following the 4 Es approach to enforcement, officers will seek to engage, explain and encourage residents and businesses to comply with legislation and regulations, and only enforce when there are persistent breaches or failure to cooperate.
- 6.7.** Appendix 1 provides the proposed updated 2022 Service Specific Policy for Regulatory Services and Health.
- 6.8.** For ease, Appendix 2 provides a table of changes to the original 2019 Policy.

## **7. Implications**

### **7.1. Legal**

- 7.1.1.** The objective of any enforcement policy is to support the underlying mechanism for enforcement set out in legislation and a formal policy is required to ensure that our principles and approach to enforcement are clear and transparent.
- 7.1.2.** The policy ensures that there will be a consistent approach to enforcement across the Regulatory Services and Health Service. Officers will have regard to the Policy when dealing with issues of legislative non-compliance, ensure that matters are dealt with fairly and proportionately whilst having regard to the resources available and the risks posed by the offence itself.
- 7.1.3.** The existence of a Service Specific Enforcement Policy provides the public with clear guidance as to how we approach enforcement matters on a service-by service basis and can provide the opportunity for constructive engagement prior to any enforcement action being taken.

## **7.2. Finance**

**7.2.1.** Implementing this service specific enforcement policy will incur staff costs that are already covered by base budgets within the relevant service areas.

**7.2.2.** Some enforcement activities incur a charge designed to solely recover the cost of the enforcement action taken and are recoverable from those subject to the enforcement activity. Some charges are set by statute whilst others are determined by the Council and must demonstrate financial transparency in how they are evaluated.

**7.2.3.** It is not possible to recover all costs associated with enforcement activity and in these circumstances, there will be pressure on existing service budgets if these additional costs cannot be absorbed.

## **7.3. Policy**

**8.3.1** The Council's Corporate Plan 2021-2025 sets out our vision for a more open, fairer, greener Cheshire East. The Plan includes the aim of a thriving and sustainable place, with a priority of welcoming, safe and clean neighbourhoods. Under this priority the plan includes an action for a clear and integrated enforcement approach with relevant fit for purpose policies for each enforcement service.

## **7.4. Equality**

**7.4.1.** The service specific policy aims to outline a transparent and consistent approach to enforcement across Cheshire East. Therefore, there are no equality implications resulting from its adoption and implementation.

## **7.5. Human Resources**

**7.5.1.** Regulatory Services and Health has an ongoing commitment to ensuring that all officers engaged in enforcement activities are suitably trained and supported. This is dealt with through the formal appraisal process and the identification of specific training with the service training plan.

## **7.6. Risk Management**

**7.6.1.** There is a reputational risk to the Council by not having a transparent and robust approach to enforcement.

**7.6.2.** Once adopted, failure to comply with one's own Enforcement Policy would be open to legal challenge as an abuse of process.

## **7.7. Rural Communities**

**7.7.1.** Regulatory Services incorporates the Animal Health and Welfare Team who work closely with our rural communities and who may therefore be subject to enforcement activities in response to proactive and reactive work.

**7.7.2.** Any enforcement activity will be based on Policy considerations and where appropriate will include collaborative working with other relevant agencies who work with this sector.

**7.8. Children and Young People/Cared for Children**

**7.8.1.** There are no implications for Children and Young People.

**7.9. Public Health**

**7.9.1.** There are no implications for public health although regulatory activity covered by this Policy may have a direct or indirect positive impact upon public health.

**7.10. Climate Change**

**7.10.1.** The Council has committed to becoming Carbon neutral by 2025 and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint. There are no implications for climate change although regulatory activity covered by this policy may have a positive impact upon the carbon emissions.

<b>Access to Information</b>	
Contact Officer:	Tracey Bettaney, Head of Regulatory Services <a href="mailto:Tracey.bettaney@cheshireeast.gov.uk">Tracey.bettaney@cheshireeast.gov.uk</a> 07814 369267
Appendices:	Appendix 1 Service Specific Enforcement Policy 2022 Appendix 2 Summary of changes
Background Papers:	<a href="#">regulatory-services-and-health-november-2019.pdf</a> <a href="#">(cheshireeast.gov.uk)</a>

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# **Service Specific Enforcement Policy**

## **Regulatory Services and Health**

To be read in conjunction with the Cheshire East Council  
Enforcement Policy

November 2022

**CHESHIRE EAST BOROUGH COUNCIL**

**REGULATORY SERVICES & HEALTH ENFORCEMENT POLICY**

**1. Aims of this Policy**

- 1.1 To advise and inform businesses and individuals with regards to the legislative powers available to the Regulatory Services & Health (RS&H) team and how and when those controls will be executed.
- 1.2 This policy must be read in conjunction with the Cheshire East Corporate Enforcement Policy which provides details of the overarching approach taken by Cheshire East in its enforcement duties.

**2. Functions of Regulatory Services and Health**

- 2.1 The Regulatory Services & Health (RS&H) team sits within the Environment and Neighbourhoods department of the Place Directorate and includes the following teams;
  - Commercial Services
  - Environmental Protection
  - Licensing
  - Animal Health and Welfare
  - Trading Standards
  - Financial Investigations
  - CCTV

**3. Working With Other Agencies**

- 3.1 RS&H undertakes a wide range of functions across the whole of Cheshire East and works with a number of internal and external partners to provide a holistic approach to enforcement. Where issues are identified that extend beyond the remit of one agency and into the role of another, then joint operations will be considered to maximise resources and improve any enforcement outcomes.
- 3.2 We will refer matters to other enforcement agencies where we believe they are the most appropriate to deal with the matter. Similarly, we will also accept referrals from others where we believe we are the most appropriate enforcement agency to deal with the issue effectively.

**4. Our Approach to Enforcement**

- 4.1 RS&H possesses various powers and duties to deal with actual or potential breaches of legislation. In other words, although there are many things that the service must do, there are also many others which it may do only if it wishes to. Where this discretion is available then the service will consider a number of wider factors to determine its most appropriate regulatory approach. Further information on these guiding principles, can be found in Section 3.0 of the Cheshire East Corporate Enforcement Policy.

- 4.2 In addition to the range of legislation available to the team we also consider national guidance and Codes of Practice when determining the most appropriate way to remedy a problem.
- 4.3 Enforcement action should not normally be considered as an initial remedy for any contraventions and where possible officers should consider informal action in the first instance having regard to the 4 E's approach; Engage, Educate, Encourage and Enforce only when there are persistent breaches or a failure to cooperate. However, there are occasions when, depending upon the severity of the contravention, formal action will be considered as the initial and most appropriate course of action.

## **5. General Service Standards**

- 5.1 RS&H aims to respond to all requests for service, complaints or information received and to conduct any investigation efficiently and as quickly as possible. Despite this, due to the complexity of some of the work, it is possible for investigations to take a considerable amount of time to enable a thorough investigation to be carried out. In these circumstances officers will, where possible, keep all parties updated on progress.

## **6. Legislative Framework**

- 6.1 RS&H has a wide range of powers contained within primary and secondary legislation. This is supported by statutory and non-statutory guidance, which help with interpretation and implementation. Where guidance exists, this will be followed unless there are good reasons to depart from it.
- 6.2 In some instances, specific powers contained within legislation are restricted to competent officers who are deemed to have the relevant qualification, skills and experience to enforce them. These specific delegations are formally recorded by the service within the Local Scheme of Delegation (LSOD).

## **7. How to Make a Report to Regulatory Services and Health**

- 7.1 Before making direct contact with Regulatory Services and Health, individuals and businesses are encouraged to visit the Cheshire East webpages for initial information and advice [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk). On some webpages, online forms exist which can be used by an individual or business to raise a specific concern directly with the service.

### **7.2 For Environmental Protection, Pest Control, Food Safety, Health & Safety, Licensing, Animal Health & Welfare**

Reports can be made online at [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk) or the Customer Contact Centre on 0300 123 5015.

### **7.3 For Trading Standards**

The government gave Citizens Advice the responsibility to provide consumer advice to the public, this is not a service commissioned by the Council directly and Citizens Advice is a wholly separate organisation.

The Citizens Advice Consumer Service (CACS) is government funded and the scope of the service is to provide free, impartial advice and information on contracts for goods and services, before, during and after purchase, including legislation or industry regulations and practical guidance. CACS provides initial advice to consumers and decides on notification or referral routes to Trading Standards.

Trading Standards will consider all **referrals** received from CACS; although this does not mean that contact will be made with complainants. Trading Standards will only seek to make further enquiries or start an investigation where there has been persistent and/or serious criminal activities and civil law breaches and in line with our Enforcement Policy.

Trading Standards do not routinely consider the **notifications** received from CACS. Instead, notifications may be considered in instances such as but not limited to:

- As part of enquiries following a decision to instigate an investigation.
- For the development of intelligence in order to direct the service objectives.

CACS can be contacted on 03454 040506 or by visiting [www.citizensadvice.org.uk/consumer/get-more-help](http://www.citizensadvice.org.uk/consumer/get-more-help)

7.4 Businesses seeking help and advice on Trading Standards matters can use the dedicated Cheshire East webpages [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk) which contains a wide variety of information. The webpage also provides contact details for the team if further help is required.

7.5 In all cases, written communications can be sent to Regulatory Services and Health, Municipal Buildings, Earle Street, Crewe CW1 2BJ.

### 7.6 **Anonymous Complaints**

There are circumstances where customer details are required to enable a full investigation to take place. Whilst officers shall ensure customers details are kept confidential, there are occasions when individuals wish to remain anonymous from the outset of the complaint. In these situations, officers will use professional judgement to determine if the service request or information can be actioned in the absence of customer information.

## 8. **Power of Entry**

8.1 Where legislation grants officers the power to enter premises to carry out specific functions, this will be undertaken in accordance with the requirements of relevant legislation.

8.2 Where a warrant is required from the Magistrates' Court, an application will be made in accordance with the Council's procedures and the requirements set out by the Magistrates' Court.

## 9. Enforcement Actions

The table below provides a brief description of the main enforcement actions available to the RS&H Team. This should be read in conjunction with the Cheshire East Corporate Enforcement Policy.

Enforcement Action	Description
Promotion	This typically involves a push of information to residents and businesses about specific matters of legislation. This can be achieved by a variety of methods including, but not limited to direct correspondence, press releases, face to face contact and website information.
Compliance Advice, Guidance and Support	RS&H uses compliance advice, guidance and support as a first response and in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of an informal warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible and avoiding the need for any formal enforcement action. However, where a similar breach is identified in the future, this previous advice will be persuasive in considering the most appropriate enforcement action to take in response to the current situation being investigated.
Warnings	Warnings are used for low-level breaches of legislation and where there is a low risk of harm to health, safety or the environment. They can be either verbal or written, but where a verbal warning is given, it will be confirmed in writing either with an inspection record left at the time of the visit or by a subsequent letter. When a warning is issued by RS&H, it may be followed up by a further visit or inspection to ensure the problem has been rectified.
Written Undertakings (Voluntary and Formal)	Where an individual or organisation persistently fails to comply with the law, RS&H may seek a written undertaking from that person that they will cease the action causing the breach. Failure by an individual or business to agree to a written undertaking, or in cases where an agreement is breached, can lead to further formal action being taken as appropriate.
Fixed Penalty Notice	Certain lower level offences, where legislation allows, can be dealt with by means of a Fixed Penalty Notice which allows the offender to discharge their liability and avoid a criminal record. RS&H will comply with any current relevant guidance on the use of Fixed Penalty Notices. Where an adult recipient does not pay the penalty offered or is a repeat offender there will be a presumption that prosecution will follow in relation to the actual offence committed.
Formal Notices	Where a breach is either causing, or likely to cause serious harm to health, the environment or safety, a formal notice may be issued to all parties concerned and can include the owner(s) of the premises. A formal notice will require a

Enforcement Action	Description
	<p>person, business or organisation to comply with specific legal requirements within a specified time period. A notice shall explain the legislation that has been breached, how to comply with the notice and the consequences of not complying with a notice. Notices will be accompanied by any relevant appeal information.</p> <p>In general, failure to comply with a notice makes those named in the notice liable for prosecution action in the Courts.</p>
Variation/Review of Permits and Licences	<p>Following the issue of a licence or permit the Council may review the conditions of that licence having regard to any legislative procedures that govern a review process.</p>
Suspension/Revocation of Permits or Licences	<p>Where a permit or licence has been issued and where continued or serious breaches occur, the Council will consider suspending/revoking the licence. This action may run in parallel with other available enforcement options.</p> <p>With regards to taxi licensing a licence may be suspended by officers or a sub-committee depending on the circumstances.</p>
Seizure and Suspension Proceedings	<p>Certain legislation enables authorised officers to seize or suspend goods, for example, unsafe food, unsafe products, noise making equipment or any goods or documents that may be required as evidence for possible future court proceedings.</p> <p>In some instances, storage of seized goods may incur a charge which will need to be paid before release and return of items.</p>
Forfeiture Proceedings	<p>This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them from re-entering the marketplace or being used to cause a further problem. RS&amp;H may seek an order of the court for forfeiture of goods it has seized either as part of criminal investigations or during the exercise of its enforcement functions.</p>
Works in Default	<p>Where a formal notice has not been complied with and it is in the public interest to undertake the work to ensure that risks to health, safety or the environment are prevented, the Council can undertake the necessary works to achieve compliance with the requirements of the notice. In some circumstances, the Council may decide to undertake the work in default and also instigate prosecution proceedings. The Council can recover any costs incurred in undertaking Works in Default from the individual or business responsible for the breach of legislation.</p>
Closure of Premises	<p>In situations where there is an imminent risk to the health or safety of the public or the environment, the Council may apply to the Courts to close a premises.</p>

Enforcement Action	Description
Caution	Where appropriate, consideration will be given to offering a Caution to a person, where they admit culpability for the offence, rather than taking a prosecution through the Courts. Therefore, a Caution will be considered in those instances where the Council is satisfied that there is sufficient evidence to offer a realistic prospect of conviction. A Caution is not a criminal conviction, but it will form part of an offenders criminal proceedings and may be referred to in any subsequent proceedings.
Financial Penalties	Where legislation permits, the Council will consider whether to impose a financial penalty within the limits set by specific legislation. This would be as an alternative to prosecution.
Prosecution	The Council will consider commencing prosecution proceedings in the Courts against any individual or business who fails to comply with the requirements of a formal Notice or in those cases where the legislation allows for this without the service of an initial formal Notice. Before commencing legal proceedings, the Council will ensure it is satisfied there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. The Council will use discretion in deciding to initiate a prosecution and may do so without prior warning taking place.
Injunction/Enforcement Order	Where a formal Notice has not been complied with and a prosecution is not considered expedient or, previous prosecution(s) have failed to secure compliance, the Council will consider applying to the Court for an Injunction. Such action will only be considered if the breach is likely to continue. In certain circumstances RS&H may consider it necessary or expedient to seek a direction from the court (in the form of an order or injunction) to control behaviour or activity.
Proceeds of Crime	There are some cases where an application under the Proceeds of Crime Act is considered appropriate. This seeks to confiscate assets from an offender in order to recover the financial benefit they have gained during the course of their criminal activities. Where such an approach is considered appropriate an Accredited Financial Investigator will commence a parallel financial investigation. Any subsequent confiscation must be made after conviction but prior to any sentencing.

## 10. Naming Offenders

- 10.1 The names and addresses of individuals or businesses who act in ways that represent significant harm or risk, particularly to the young and vulnerable or against the interest of legitimate businesses may be published. This action may be taken in circumstances where:

- Evidence of unfair, dishonest or illegal trading is conclusive.
- It is in the public interest to do so.
- There is no risk of prejudicing legal proceedings or other formal enforcement action.
- To do so does not breach Human Rights or Data Protection law.
- Prosecution proceedings have concluded.

10.2 The service is also bound by the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. This means that where the council receives specific requests for information, for example inspection reports relating to business premises, then it is required to release them unless there are specific circumstances which exempt release.

## **11. Appeals**

11.1 There is a statutory right of appeal against the Council's decision to issue a formal Notice. The period for submission of the appeal is set by legislation and all notices will contain information relating to the appeal provisions.

11.2 Unless otherwise stated in the formal Notice, where an appeal is lodged with the Courts, the requirements of the Notice will be held in abeyance until the appeal has been determined.

11.3 In addition to formal Notices other enforcement decisions made by the Council, can be challenged through an appeals process. Where an appeal is available, information relating to any process and procedures will be provided with notification of the decision.

## **12. Works in Default – Cost Recovery**

12.1 The Council has the power to carry out works in default for certain Notices and recover all reasonable costs incurred from any person(s) responsible for a failure to comply with requirements. It is not necessary for the Council to have exhausted all other avenues, e.g., prosecution, before a decision is taken to carry out works in default.

12.2 Where it is considered reasonable and proportionate, the Council will carry out works in default and seek to recover all costs incurred either directly from the owner/occupier or by placing a registered charge on the land. Ultimately, the Council may seek to use its powers to force the sale of land to recover its costs.

## **13. Verbal/Physical Abuse Towards Officers**

13.1 The Council is committed to ensuring that its officers are able to carry out their work safely and without fear and, where appropriate, will use legal action to prevent abuse, harassment or assault towards officers. To obstruct an officer in carrying out their duties is an offence and legal action may be taken against any person(s) doing so.

13.2 Officers are entitled, if subjected to verbal abuse either in person or on the telephone, to terminate the meeting or telephone call.

## **14. Complaints and Compliments about the service**

14.1 In accordance with the Council's Compliments, Suggestions and Complaints procedure, persons wishing to make a complaint or compliment about the Regulatory Services and Health service can do so using a number of means:

- Using any contact information provided as part of formal correspondence issued by the service;
- By telephoning our customer contact centre on 0300 123 5500;
- In writing to Cheshire East Borough Council, Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ; or
- Online at [Customer feedback, compliments and complaints \(cheshireeast.gov.uk\)](https://www.cheshireeast.gov.uk/customer-feedback-compliments-and-complaints)

14.2 If the complainant has exhausted the Council's corporate complaint process without satisfaction, they can complain to the Local Government Ombudsman. Advice about the types of complaint the Local Government Ombudsman can investigate, as well as application forms for such complaints can be found at the following web site, [www.lgo.org.uk](http://www.lgo.org.uk). Application forms for such complaints are also available on request at Cheshire East Borough Council offices.

14.3 The Office of Environmental Protection (OEP) was created in November 2021 under the Environment Act 2021. The mission of the OEP is to protect and improve the environment by holding government and public authorities to account. As part of their work they can receive complaints, conduct investigations and commencing legal procedures if warranted. For more information on the OEP and their remit please visit their website [www.theoep.org.uk](http://www.theoep.org.uk)

## **15. Policy Review**

15.1 This policy will be subject to a general review every three years. Where significant changes are required i.e., if there is a significant change to our enforcement approach then those changes will be subject to the formal approval process in place at that time.

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**Appendix 2                      Summary of changes**

<b>Paragraph Number</b>	<b>Change</b>
3.2	Simplified wording
4.1	Simplified wording
4.2	Simplified wording
4.3	Inclusion of reference to 4 E's approach – Engage, Educate, Encourage, Enforce.
6.1	Simplified wording and additional information relation to the role of guidance.
6.2	Additional information on where Local Schemes of Delegation are recorded.
7.1	Additional information provided in relation to new online reporting forms in use by the RSH service.
7.3	Clarification on the role of Citizens Advice Consumer Service (CACS). Further emphasis on the differences in approach to referrals and notifications.
7.4	Simplified wording
9.0	Simplified wording to enforcement options available. Removal of reference to mediation as an enforcement option as this is not carried out within the service.
10.2	New paragraph inserted to reference the release of information relating to enforcement activity where FOI and EIR requests are received.
12.1	Simplified wording
14.3	Reference to new Office of Environmental Protection and their potential role in complaint investigation.
15.0	Proposed policy review approach.

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## Environment and Communities Committee

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<b>Date of Meeting:</b>	10 November 2022
<b>Report Title:</b>	Notice of Motion: Sprinklers Save Lives and Protect Property from Fire
<b>Report of:</b>	Jayne Traverse, Executive Director of Place
<b>Report Reference No:</b>	EC/23/22- 23
<b>Ward(s) Affected:</b>	All

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### 1. Purpose of Report

- 1.1. At the full Council Meeting of 20 July 2022 a notice of motion was proposed in relation to the fitting of sprinklers in buildings in the borough. This report responds to that notice of motion.

### 2. Executive Summary

- 2.1. A Notice of Motion relating to the fitting of sprinklers in buildings in the borough was proposed to Council at its meeting on 20 July 2022. The motion was proposed by Councillor N Mannion and seconded by Councillor J Nicholas.
- 2.2. The motion proposed that the Council be a leader in securing the fitting of sprinklers in buildings in the borough. The full Notice of Motion is provided at paragraph 6.1.
- 2.3. Council referred the motion to the Environment and Communities Committee.
- 2.4. The primary legislation under which the Council promotes and enforces fire safety is Building Regulations which play a significant role ensuring the design and construction of new and modified buildings mitigates the risks associated with fire. The regulations include the requirement of sprinklers for new buildings above 11m in height where they contain at least one dwelling unit. Planning policies may compliment such regulations, but it is important that planning requirements do not overstep into areas better addressed by other legislation.

### 3. Recommendations

- 3.1. That the Committee note the national legislation and regulations that promote and enforce fire safety in buildings.

- 3.2. That the Committee decide what action, if any, they wish to take in response to the Notice of Motion.

#### 4. Reasons for Recommendations

- 4.1. The Cheshire East Council Constitution sets out the procedure for Notices of Motion submitted to Council. A motion referred to the relevant decision-making body must be considered within two meeting cycles. At the meeting to which the motion has been referred for consideration, the proposer of the motion if present shall be invited to speak first, followed by the seconder. The matter will then be opened up to wider discussion.

#### 5. Other Options Considered

- 5.1. No other options were considered. In the interests of being open and transparent, the response to this Notice of Motion to Council will be considered by the relevant service Committee in accordance with the Council's Constitution

#### 6. Background

- 6.1. The full Notice of Motion proposed to Council was as follows.

##### ***Sprinklers Save Lives and Protect Property from Fire***

*We want our Council to be a leader in securing the fitting of sprinklers in buildings in our Borough.*

*We want it to lead by example: fitting sprinklers during major refurbishments of its buildings; specifying the fitting of sprinklers in buildings that are constructed on its behalf; and prioritising the fitting of sprinklers in buildings that it owns where specific risks exist (for example, where people sleep).*

*We wish to do all that we can to secure the fitting of sprinklers in the following building types:*

- *Care homes, Extra Care Facilities and Specialised Housing*
- *Flats and apartment blocks (below 11m)\**
- *Houses in Multiple Occupation*
- *Schools*
- *Large High Bay warehousing\*\**

*We know that legislative change is required to national planning and building policy in this area. However, we know of the success that local authorities have had in shaping local development policies through for example, neighbourhood planning and supplementary planning documents.*

*Therefore, we recommend:*

1. *Our council explores local policy options to promote and secure the fitting of sprinklers in the above building types when they are built, or if they undergo a major refurbishment.*
2. *Our council writes to the Secretary of State for the Department for Levelling Up, Housing and Communities and local Members of Parliament to promote changes to the law to require sprinklers in at least the above building types.*
3. *Our council writes to the Secretary of State for the Department for Education to strongly oppose the proposed removal of sprinkler provisions from the revision of the design guide for fire safety in schools (Building Bulletin 100) and to request that the requirement for sprinklers in schools is strengthened rather than removed.*

*This proposal has the unanimous support of the Cheshire Fire & Rescue Authority and is now being submitted to each of the four Councils that are covered by the Fire & Rescue Authority.*

### **Background Information**

*Sprinklers save lives, protect property and benefit the environment.*

*There have been no recorded fire deaths in a building fitted with correctly installed and maintained residential sprinklers.*

*Only the sprinkler affected by the fire will activate using a controlled quantity of water*

*There is a 1 in 16 million chance that a sprinkler will discharge due to a manufacturing defect.*

*Sprinklers are cost effective*

*It is a well-known fact that many businesses that suffer from significant fires and fire damage never return to operation. Sprinklers can safeguard against this and will significantly improve business continuity.*

*Cheshire Fire Authority has worked with Registered Social Landlords across Cheshire to secure the fitting of sprinklers in high-rise buildings. To date 17 high-rise buildings out of a possible 21 have been fitted with sprinklers with a further one in the fit-out stage. All were part-funded by Cheshire Fire Authority.*

*The following link takes you to videos showing the effectiveness of sprinklers and a comparison of a fire in a room with and without sprinklers fitted.*

<https://www.cheshirefire.gov.uk/business-safety/sprinklers/how-sprinklers-work/watch-how-sprinklers-put-out-fires>

*\* Flats and apartment buildings above 11m are now required to be fitted with sprinklers*

*\*\* High Bay Warehousing does not need sprinklers until they exceed 20,000m<sup>2</sup>. As an example it can be 200m long and 100m wide before it needs sprinklers.*

- 6.2.** The primary legislation under which the Council promotes and enforces fire safety in new and existing domestic properties is through the Building Regulations 2010. The Building Regulations play a significant role ensuring the design and construction of new and modified buildings mitigates the risks associated with fire. Examples include the provision of fire doors, fire resistant materials, the containment of fire risk through design and adequate means of escape and the inclusion of appropriate fire and smoke detection systems. All of these factors combined affect the safety of our buildings.
- 6.3.** Section 1 of the Building Act 1984 authorises the Secretary of State to make such Regulations to secure the health, safety and well-being of persons in or around buildings together with others who may be affected by them. The recent Building Safety Act 2022 has established in law the role of the Building Safety Regulator to oversee the profession moving forward, taking a lead role for buildings over 18m that contain dwellings.
- 6.4.** In May 2020 the primary set of documents referred to as “Approved Document B” issued under the Building Regulations 2010 were amended to include the requirement of sprinklers for new buildings above 11m in height where they contain at least one dwelling unit.
- 6.5.** Whilst legislation does not include buildings under 11m the industry does appear to be responding to some of the catastrophic implications of fire and designing in the use of sprinklers where appropriate, such as extra care premises.
- 6.6.** The current British Standard for Fire safety in the design, management and use of residential buildings (BS9991:2015) includes a definition for specialized housing and where sprinklers are included allows compensatory measures such as increased evacuation travel distances.
- 6.7.** The Building Control service apply consideration to the use of sprinklers as part of a fire engineering solution when considering compliance with the Regulations. There are areas where the use of sprinklers can be used to offset requirements for passive fire safety measures.
- 6.8.** Planning policies may compliment such regulations, but it is important that planning requirements do not overstep into areas better addressed by other legislation. Enforcement against non-compliance rests with the Building Control Authority and not the Planning Authority.
- 6.9.** Planning has recently taken on a formal role in considering fire safety matters through the introduction of ‘planning gateway one’ in August 2021. It affects buildings 18 metres or more in height, or seven or more storeys, containing two or more dwellings or residential student accommodation. Its purpose is to bring forward thinking on fire safety matters as they relate to land use planning

to the earliest possible stage in the development process. For relevant buildings it requires:

- developers to submit, with their planning application, a fire statement setting out fire safety considerations; and
- the Health and Safety Executive to be consulted by the local planning authority before granting planning permission

**6.10.** The Notice of Motion proposed to Council highlights two planning policy routes through which fire safety in buildings might be introduced as a material planning consideration in determining planning applications for several categories of development, going beyond the requirements of 'planning gateway one'. The first, neighbourhood plans, are prepared by Town and Parish Councils. The scope of policies within these plans is a matter for the relevant local council. The second identified route is through a supplementary planning document (SPD). SPDs are intended to provide additional planning guidance to support the implementation of policies in the adopted Local Plan. The Local Plan Strategy contains no explicit policy about fire safety in buildings. Policy SC3 (Health and Well-Being) supports new developments that provide healthy living and improve health and well-being through, amongst other things, sound safety standards. What is meant by sound safety standards is not explained in the supporting information accompanying the policy. Safety is referred to, however, in the context of preventing crime through design measures, such as providing for the surveillance of public spaces. The emerging Site Allocations and Development Policies Document also does not provide a relevant policy hook.

**6.11.** An alternative option is for a new policy about fire safety in buildings to be considered and tested through the Local Plan Update. However, even if successfully included, it would not become a weighty material consideration until the latter stages of the plan-making process

**6.12.** Building Bulletin 100 (BB100), published in 2007, is non-statutory guidance on fire safety for schools. The guidance covers designing a school building so that pupils and staff will have early warning if a fire breaks out and can evacuate quickly and safely. BB100 advises how to minimise the spread of fire and how to ensure the building structure is adequately resistant to fire. It also includes requirements for access and facilities for the Fire and Rescue Services. A consultation was undertaken by the Department for Education from 27 May to 8 August 2021 on proposed revisions to the Building Bulletin 100 design guide for fire safety in schools. The government are currently considering the responses.

## **7. Implications**

### **7.1. Legal**

7.1.1. Paragraphs 6.2 to 6.11 above detail the primary legislation under which the Council promotes and enforces fire safety in new and existing domestic properties and the legal implications for the council are contained therein.

7.1.2. It is recommended that further legal advice is sought should the Motion be accepted on the scope of promoting fire safety in policies as material considerations over and above the current legal framework.

**7.2. Finance**

7.2.1. There would be staffing resource implications for the Planning service if the council chooses to explore local planning policy options to promote and secure the fitting of sprinklers over and above the requirements of Building Regulations. The priority of this activity would need to be considered against the policy priorities set out in the Local Development Scheme.

**7.3. Policy**

7.3.1. There are no policy implications arising from this report.

**7.4. Equality**

7.4.1. There are no equality implications arising from this report.

**7.5. Human Resources**

7.5.1. There are no Human Resources implications arising from this report.

**7.6. Risk Management**

7.6.1. The recommendations of the motion propose to influence policy that could help mitigate the risk to people and property from fire.

**7.7. Rural Communities**

7.7.1. There are no implications for rural communities arising from this report.

**7.8. Children and Young People/Cared for Children**

7.8.1. The motion includes a recommendation to write to the Secretary of State for the Department for Education to oppose the proposed removal of sprinkler provisions from the revision of the design guide for fire safety in schools (Building Bulletin 100) and to request that the requirement for sprinklers in schools is strengthened rather than removed.

**7.9. Public Health**

7.9.1. There are no implications for public health arising from this report.

**7.10. Climate Change**

7.10.1. There are no implications for climate change arising from this report.

<b>Access to Information</b>	
Contact Officer:	Paul Bayley, Director of Environment and Neighbourhood Services <a href="mailto:paul.bayley@cheshireeast.gov.uk">paul.bayley@cheshireeast.gov.uk</a>
Appendices:	n/a
Background Papers:	<a href="#">Building Bulletin 100: design for fire safety in schools - GOV.UK (www.gov.uk)</a> <a href="#">Building Bulletin 100 - Department for Education - Citizen Space</a>

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## **Environment and Communities Committee**

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<b>Date of Meeting:</b>	10 November 2022
<b>Report Title:</b>	Financial Review 2022/23
<b>Report of:</b>	Alex Thompson, Director of Finance and Customer Services (Section 151 Officer)
<b>Report Reference No:</b>	EC/17/22- 23
<b>Ward(s) Affected:</b>	Not Applicable

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### **1. Recommendations**

That Environment and Communities Committee:

- 1.1. Notes the report of the Finance Sub-Committee ([Agenda for Finance Sub-Committee on Wednesday, 9th November, 2022, 2.00 pm | Cheshire East Council](#)), specifically the recommendations of that committee.
  - 1.1.1. Finance Sub-Committee recommend Service Committees to:
    - 1.1.1.1. note the financial update and forecast outturn relevant to their terms of reference.
    - 1.1.1.2. note that officers will seek to improve the financial outturn across all Committees to mitigate the overall forecast overspend of the Council.
- 1.2. Notes Appendix 5 and the following sections specific to this Committee:
  - Changes to Revenue budget 2022/23
  - Action Plan 2022/23
  - Corporate Grants Register
  - Debt Management
  - Capital Strategy
  - Reserve Strategy

## 2. Reasons for Recommendations

- 2.1. Committees are responsible for discharging the Council's functions within the Budget and Policy Framework provided by Council. The Budget will be aligned with Committee and Head of Service responsibilities as far as possible.
- 2.2. Budget holders are expected to manage within the budgets provided by full Council. Committee and Sub-Committees are responsible for monitoring financial control and making decisions as required by these rules.

<b>Access to Information</b>	
Contact Officer:	Alex Thompson Director of Finance and Customer Services (Section 151 Officer) <a href="mailto:alex.thompson@cheshireeast.gov.uk">alex.thompson@cheshireeast.gov.uk</a>
Appendices:	<b>Finance Sub Committee Financial Review 2022-23</b> which includes: <b>Covering Report</b> <b>Annex 1: Appendix 5</b> Environment and Communities Committee.
Background Papers:	<a href="#">Medium-Term Financial Strategy</a> <a href="#">First Financial Review, Item No.14</a>



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## **Finance Sub-Committee**

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<b>Date of Meeting:</b>	9 November 2022
<b>Report Title:</b>	Financial Review 2022/23
<b>Report of:</b>	Alex Thompson: Director of Finance and Customer Services
<b>Report Reference No:</b>	FSC/6/22-23
<b>Ward(s) Affected:</b>	Not applicable

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### **1. Purpose of Report**

- 1.1.** This report provides members with an overview of the Cheshire East Council forecast outturn for the financial year 2022/23 as reported to Corporate Policy Committee on 6 October 2022. This report gives all service committees an opportunity to consider the First Review forecasts and the associated Action Plans.
- 1.2.** Members are being asked to note the financial challenges being experienced by the Council and to recognise the importance of ongoing activity to minimise the impact on services. The report also requests approval for financial changes taking place during the year that require authorisation in-line with the Constitution.
- 1.3.** The report highlights the negative impact of increasing inflationary pressures on the Council's budget since it was set in February 2022. It also highlights ongoing costs of Covid-19 scarring, where expenditure is still increased due to the effects of the pandemic.
- 1.4.** Reporting the financial forecast outturn at this stage, and in this format, supports the Council's vision to be an open Council as set out in the Corporate Plan 2021 to 2025. In particular, the priorities for an open and enabling organisation, ensure that there is transparency in all aspects of council decision making.

## **2. Executive Summary**

- 2.1.** The Council operates a financial cycle of planning, monitoring and reporting. This review is part of the monitoring cycle providing the forecast outturn position and any impacts on planning for next year's budget. This report supports the Council priority of being an open and enabling organisation, ensuring that there is transparency in all aspects of council decision making.
- 2.2.** The Council set its 2022/23 annual budget in February 2022. The budget was balanced, as required, and included important planning assumptions about spending in the year. The budget is part of the Medium-Term Financial Strategy (MTFS) 2022 to 2026.
- 2.3.** The provisional financial outturn for 2021/22 was reported in July 2022 and highlighted good financial management in that year, with an overall revenue outturn favourable variance of £1.1m (0.4% of the net budget). The report also recognised emerging pressure within the final quarter of the year, particularly from rising inflation and complexity of demand for care. It was also acknowledged specific risks remained unmitigated in respect of the Council's Private Finance Initiative and High Needs within the Dedicated Schools Grant. The report also highlighted the end of Covid-19 grant funding. The ongoing assumption was that carried forward grant funding would have to be used to fund ongoing Covid-19 related pressure.
- 2.4.** In monitoring the 2022/23 financial year the national increase in inflation, from 0.4% in February 2021 to 10.1% in July 2022, is having a significant impact on the cost of Council services as well as on the cost of living for local residents. Inflation is affecting several critical areas:
- 2.4.1.** Service demand and contract inflation: Care needs are demand led, but care costs are rising due to increasing complexity of need as well as rising provider costs linked to staff shortages and utility and fuel prices. Fuel prices are also causing increases in transport and waste services.
- 2.4.2.** Pay inflation: Assumptions about achieving target inflation at a national level are not realistic in the short to medium term. This is creating cost of living increases that are subsequently leading to increasing wage demands. Pay negotiations for Council staff are impacted by this too, but are carried out at a national, not local, level. The main Trade Unions are balloting their members on the Employers' final pay offer of a flat figure increase which averages at 6%. The outcome of the pay negotiations are expected in early November.
- 2.4.3.** Covid-19 scarring: Although government funding for Covid-19 related costs has ended there remains an ongoing impact on care services and some services funded from fees and charges. Waste services are also experiencing ongoing tonnage increases from changed behaviour linked to the pandemic.

- 2.5. The findings of this financial review present a need to mitigate emerging financial pressures. The MTFS recognises that the Council has relatively low levels of reserves as funding is instead utilised to manage ongoing service demand. Mitigation can focus on several areas:
- 2.5.1. Appropriate use of balances: Carried forward Covid-19 funding, MTFS Reserve, General Reserves and specific service and company reserves levels are being reviewed and funding released to support essential services where practical. Flexible use of Capital receipts is also under review, which can allow eligible one-off revenue transformation expenditure by services to be funded from the proceeds of asset sales.
- 2.5.2. Efficiencies and Income generation: Services continue to review non-essential spending requirements to release efficiencies, delay spending or generate additional income from key stakeholders.
- 2.6. The financial pressure being experienced by Cheshire East Council is not unique. Local authorities, including Cheshire East Council, continue to liaise with government departments over the severity of so many emerging financial issues. The Council achieves this liaison either directly or through professional or political networks. The County Councils Network's most recent analysis of the costs of inflation warn that "any moves to cut their budgets next year would be 'worse than austerity' and result in 'devastating' reductions in local services – with local authorities offering just the bare minimum" ([CCN News 2022](#)).
- 2.7. The report sets out details of the latest Financial Review of the Council's forecast financial performance for 2022/23, including the forecast revenue position as reported to Corporate Policy Committee on 6 October 2022, and most recent updates to the Capital programme and grant funding received:

#### **Annex 1: Financial Review 2022/23**

- **Financial Stability:** Provides information on the overall financial stability and resilience of the Council. It demonstrates how spending in 2022/23 is being funded, including the positions on overall service budgets, centrally held budgets, council tax and business rates. Further details are contained in the appendices.
- **Appendices:**
  - Appendix 1** Adults and Health Committee.
  - Appendix 2** Children and Families Committee.
  - Appendix 3** Corporate Policy Committee.
  - Appendix 4** Economy and Growth Committee.
  - Appendix 5** Environment and Communities Committee.
  - Appendix 6** Finance Sub-Committee.
  - Appendix 7** Highways and Transport Committee.
  - Appendix 8** Update to the Treasury Management Strategy.
  - Appendix 9** Update to the Investment Strategy.

### 3. Recommendations

Finance Sub-Committee is asked to:

- 3.1. Note the forecast adverse Net Revenue financial pressure of £11.6m against a revised budget of £328.4m (3.5%) as reported to Corporate Policy Committee on 6 October 2022.
- 3.2. Note the forecast Capital Spending of £179.6m against an approved MTFS budget £185.2m due to slippage carried forward from the previous year.
- 3.3. Endorse the approach of Senior Officers to mitigate the adverse forecasts through the activities outlined in each 'Action Plan' contained in Annex 1 (Appendices 1 to 7), which include:
  - Managed restriction of in-year spending, whilst retaining essential services, in consultation with the relevant Committee.
  - Reviewing the level of spending on key contracts and reviewing the need for contract renewals during 2022/23.
  - Pricing and grant reviews to ensure income is being fully recovered on related activity.
  - Enhanced vacancy forecasting and management.
  - Re-alignment of, and appropriate use of balances, such as earmarked reserves, General Reserves and capital receipts.
  - Review and reprofile the Capital Programme to prevent any impact of related inflation on the revenue budget.
- 3.4. Note the contents of Annex 1 and each of the appendices, and note that any financial mitigation decisions requiring member approval will be presented to the appropriate Committee.
- 3.5. Approve supplementary capital estimates up to and including £1,000,000 in accordance with Financial Procedure Rules as detailed in **Appendix 6, Section 5 Capital Strategy, Table 5**.
- 3.6. Set up a Task Group to review the financial assumptions that will underpin the preparation of the Medium-Term Financial Strategy 2023/24-2026/27.
- 3.7. Note that Council will be asked to approve:
  - 3.7.1. Fully funded supplementary revenue estimates for specific grants coded directly to services over £1,000,000 in accordance with Financial Procedure Rules as detailed in **Appendix 6, Section 3 Corporate Grants Register, Table 1**.
  - 3.7.2. Supplementary capital estimates over £1,000,000 in accordance with Financial Procedure Rules as detailed in **Appendix 6, Section 5 Capital Strategy, Table 6**.

- 3.8.** Recommend to Service Committees to:
- 3.8.1. Note the financial update and forecast outturn relevant to their terms of reference.
- 3.8.2. Note that officers will seek to improve the financial outturn across all Committees to mitigate the overall forecast overspend of the Council.
- 3.8.3. Approve supplementary revenue estimates for specific grants coded directly to services up to and including £1,000,000 in accordance with Financial Procedure Rules as detailed in **Appendix 2 Children and Families Committee, Section 3 Corporate Grants Register, Table 2.**

#### **4. Reasons for Recommendations**

- 4.1. The overall process for managing the Council's resources focuses on value for money, good governance and stewardship. The approach to these responsibilities is captured in the Medium-Term Financial Strategy.
- 4.2. The budget and policy framework sets out rules for managing the Council's financial affairs and contains the financial limits that apply in various parts of the Constitution. As part of sound financial management and to comply with the constitution any changes to the budgets agreed by Council in the MTFS require approval in-line with the financial limits within the Finance Procedure Rules.
- 4.3. This report provides strong links between the Council's statutory reporting requirements and the in-year monitoring processes for financial and non-financial management of resources.
- 4.4. In approving the Cheshire East Council Medium-Term Financial Strategy members of the Council had regard to the robustness of estimates and adequacy of reserves as reported by the s.151 Officer. The s.151 Officer's report highlighted the importance of each element of the MTFS and the requirement to achieve all the proposals within it. The recommendations of this report highlight the need for ongoing activity to manage the financial pressure being experienced by the Council.

#### **5. Other Options Considered**

- 5.1. None. This report is important to ensure members of the Committee are sighted on the financial pressure the Council is facing and the activity to date to try and mitigate this issue. Activity is required to ensure the Council balances its expenditure and income without serious impact on essential Council services.

#### **6. Background**

- 6.1. Managing performance is essential to the achievement of outcomes. This is especially important in evidencing the achievement of value for money across an organisation the size of Cheshire East Council. The Council is the third largest Local Authority in the Northwest of England, responsible for

approximately 500 services, supporting over 398,000 local people. Gross annual spending is over £700m, with a revised net revenue budget for 2022/23 of £328.4m.

- 6.2.** The management structure of the Council is organised into four directorates: Adults, Health and Integration; Children’s Services; Place; and Corporate Services. The Council’s reporting structure provides forecasts of a potential year-end outturn within each directorate during the year, as well as highlighting activity carried out in support of each outcome contained within the Corporate Plan.
- 6.3.** The political structure of the Council is organised into six committees, with a single sub-committee, all with financial responsibilities acutely aligned to the management structure. Performance against the 2022/23 Budget within each Committee, and the sub-committee, is outlined in Table 1 below.
- 6.4.** **Table 1 – Revenue Outturn Forecast split by the Six Service Committees and the Finance Sub-Committee as reported to Corporate Policy Committee 6 October 2022**

<b>2022/23</b>	<b>Revised Budget</b>	<b>Forecast Outturn</b>	<b>Forecast Variance</b>
<b>(GROSS Revenue Budget £474.2m)</b>	<b>(NET)</b>		
	<b>£m</b>	<b>£m</b>	<b>£m</b>
<b>Service Committee</b>			
Adults and Health	120.9	132.6	11.7
Children and Families	74.5	78.0	3.5
Economy and Growth	23.6	23.8	0.2
Environment and Communities	44.3	46.2	1.9
Highways and Transport	13.8	14.3	0.5
Corporate Policy	39.8	40.6	0.8
<b>Sub-Committee</b>			
Finance Sub	(316.9)	(323.9)	(7.0)
<b>TOTAL</b>	<b>-</b>	<b>11.6</b>	<b>11.6</b>

- 6.5.** The Council set a balanced net revenue budget of £327.7m at its meeting in February 2022. Current forecasts against the revised budget of £328.4m, shows a potential net expenditure of £340.0m.
- 6.6.** This position reflects the increase in demand led pressures in social care in both the Children’s Services Directorate and Adults, Health and Integration Directorate. This mirrors national events and the County Council’s Network has recently reported that forecast increases in care costs could be more than double those reported as recently as 2021.
- 6.7.** There are further pressures due to increased costs relating to rising inflation and the current national pay offer. The Council, in-line with most public

sector organisations, relies on government inflation targets when calculating budgets, target inflation remains at 2% but actual inflation is currently exceeding 10%. Some predictions say it may reach 13% by the end of the year. The Council actually forecast local pay increases of 2.5% recognising potentially higher increases for local lower paid workers. However, current national pay negotiations could see wages rise in excess of 6% for some lower paid workers.

- 6.8.** General Reserve balances are risk assessed and it was highlighted in the MTFS that emerging risks such as inflation and particularly the DSG deficit, as having no alternative funding. To address the issue of emerging financial pressure Senior Officers at the Council have set up Action Plans, which will continue to be developed to identify activities required to bring spending back in line with the MTFS.
- 6.9.** The emerging Action Plans reflect the Committee Structure to allow member oversight of the activities being carried out to manage in-year spending. Any appropriate decisions required from members will be brought to the Committee's attention via the Action Plans, to ensure appropriate context is provided.
- 6.10.** There is a clear ambition for each Committee to achieve spending in-line with the approved MTFS. However, in some cases, given the seriousness of the financial pressure being put on the Council, Committee members should consider options to exceed financial performance targets to retain an overall balanced position.
- 6.11.** Whilst some inflation factors may be temporary, the Action Plans must also consider the medium-term resilience of mitigation activity. For example, the use of one-off balances, to mitigate in-year spend, may be effective in the short term, but would not be effective if spending is likely to recur in later years.
- 6.12.** The Government is currently set to announce its Autumn Statement on 17 November 2022 and it may be helpful, in this very challenging environment, in providing some further information to assist local authorities in their business and financial planning
- 6.13.** As noted at recommendation 3.6 of this report, Finance Sub Committee are being asked to set up a task group to review the financial assumptions that will underpin the preparations of the Medium-Term Financial Strategy 2023/24 to 2026/27. This is vital to ensure that all current assumptions are reviewed and revised where necessary to reflect ongoing and emerging changes to the assumptions contained within the approved MTFS from February 2022.
- 6.14.** The intention is to report an updated Financial Review report to Corporate Policy Committee on 1 December 2022 which will be informed by the latest forecasts, and any information that may come from the Government's 17 November 2022 Autumn Statement.

## **7. Consultation and Engagement**

- 7.1.** As part of the budget setting process the Pre-Budget Consultation provided an opportunity for interested parties to review and comment on the Council's Budget proposals. The budget proposals described in the consultation document were Council wide proposals and that consultation was invited on the broad budget proposals. Where the implications of individual proposals were much wider for individuals affected by each proposal, further full and proper consultation was undertaken with people who would potentially be affected by individual budget proposals.

## **8. Implications**

### **8.1. Legal**

- 8.1.1.** The legal implications surrounding the process of setting the 2022 to 2026 Medium-Term Financial Strategy were dealt with in the reports relating to that process. The purpose of this paper is to provide a progress report for 2022/23.
- 8.1.2.** Other implications arising directly from this report relate to the internal processes of approving supplementary estimates and virements referred to above which are governed by the Finance Procedure Rules.
- 8.1.3.** Legal implications that arise when activities funded from the budgets that this report deals with are undertaken, but those implications will be dealt with in the individual reports to Members or Officer Decision Records that relate.

### **8.2. Finance**

- 8.2.1.** The Council's financial resources are agreed by Council and aligned to the achievement of stated outcomes for local residents and communities. Monitoring and managing performance help to ensure that resources are used effectively, and that business planning and financial decision making are made in the right context.
- 8.2.2.** Reserve levels are agreed, by Council, in February each year and are based on a risk assessment that considers the financial challenges facing the Council. If spending associated with in-year delivery of services is not contained within original forecasts for such activity it may be necessary to vire funds from reserves.
- 8.2.3.** The unplanned use of financial reserves could require the Council to deliver a greater level of future savings to replenish reserve balances and / or revise the level of risks associated with the development of the Reserves Strategy in future.
- 8.2.4.** As part of the process to produce this report, senior officers review expenditure and income across all services to support the development of mitigation plans that will return the outturn to a balanced position at year-end.

**8.2.5.** Forecasts contained within this review provide important information in the process of developing the Medium-Term Financial Strategy. Analysis of variances during the year will identify whether such performance is likely to continue, and this enables more robust estimates to be established.

**8.3. Policy**

**8.3.1.** This report is a backward look at Council activities and predicts the year-end position.

**8.3.2.** The forecast outturn position, ongoing considerations for future years, and the impact on general reserves will be fed into the assumptions underpinning the 2023 to 2027 Medium-Term Financial Strategy.

**8.4. Equality**

**8.4.1.** Any equality implications that arise from activities funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

**8.5. Human Resources**

**8.5.1.** This report is a backward look at Council activities and states the forecast year-end position. Any HR implications that arise from activities funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

**8.6. Risk Management**

**8.6.1.** Performance and risk management are part of the management processes of the Authority. Risks are captured at Strategic and Operational levels, both in terms of the risk of underperforming and risks to the Council in not delivering its objectives for its residents, businesses, partners and other stakeholders.

**8.6.2.** Financial risks are assessed and reported on a regular basis, and remedial action taken if and when required. Risks associated with the achievement of the 2021/22 budget and the level of general reserves were factored into the 2022/23 financial scenario, budget and reserves strategy.

**8.7. Rural Communities**

**8.7.1.** The report provides details of service provision across the borough.

**8.8. Children and Young People/Cared for Children**

**8.8.1.** The report provides details of service provision across the borough.

**8.9. Public Health**

- 8.9.1.** Public health implications that arise from activities that this report deals with will be dealt with as separate reports to Members or Officer Decision Records as required.

**8.10. Climate Change**

- 8.10.1.** Climate change implications that arise from activities that this report deals with will be dealt with as separate reports to Members or Officer Decision Records as required.

<b>Access to Information</b>	
Contact Officer:	Alex Thompson Director of Finance and Customer Services (Section 151 Officer) <a href="mailto:alex.thompson@cheshireeast.gov.uk">alex.thompson@cheshireeast.gov.uk</a> 01270 685876
Appendices:	<b>Annex 1 including:</b> <b>Section 1</b> provides information on the overall financial stability and resilience of the Council. Further details are contained in the appendices. <b>Appendix 1</b> Adults and Health Committee. <b>Appendix 2</b> Children and Families Committee. <b>Appendix 3</b> Corporate Policy Committee. <b>Appendix 4</b> Economy and Growth Committee. <b>Appendix 5</b> Environment and Communities Committee. <b>Appendix 6</b> Finance Sub-Committee. <b>Appendix 7</b> Highways and Transport Committee. <b>Appendix 8</b> Update to the Treasury Management Strategy. <b>Appendix 9</b> Update to the Investment Strategy.
Background Papers:	The following are links to key background documents: <a href="#">Medium-Term Financial Strategy</a> <a href="#">First Financial Review, Item No.14</a>



# Financial Review 2022/23

November 2022

This report receives scrutiny and approval from Members of Cheshire East Council. As a public report, the Council welcomes feedback to the information contained here.

**Anyone wanting to comment is invited to contact the Council at:**

**[shapingourservices@cheshireeast.gov.uk](mailto:shapingourservices@cheshireeast.gov.uk)**

# Introduction

Cheshire East Council is the third largest Council in the Northwest of England, supporting over 398,000 local people with annual spending of over £470m.

Local government is going through a period of financial challenges, with a combination of the impact of increasing demand for services and rising costs due to inflation. There is also increasing uncertainty associated with income from business rates and government grants.

Demand for Council services is increasing, with more individuals and families needing support and services than ever before. This reflects an increase in population but also reflects changes in demographics and the national cost of living increases. This demand is resulting in forecast outturn of £340.0m against a net revenue budget of £328.4m, with the most significant impact within the rising complexity of needs in Adult Social Care.

When the 2022/23 budget was set, in February 2022, it was highlighted that the use of reserves was not sustainable in the medium term. Net spending therefore needs to be contained within the estimates of expenditure that form the budget. The forecasts at first review highlight pressures due to demand, inflation and pay negotiations. These will almost certainly affect the medium term finances of the Council. This situation must be addressed now and as part of the MTFS process for 2023 to 2027.

To support openness and transparency, and provide evidence of strong governance, the report has a main section, to provide background and context, and then nine supporting appendices with detailed information about allocation and management of public money during 2022/23:

The **Financial Stability** section provides information on the overall financial stability and resilience of the Council. It demonstrates how spending in 2022/23 is being funded, including the positions on overall service budgets, centrally held budgets, council tax and business rates. Further details are contained in the appendices.

- **Appendix 1** Adults and Health Committee.
- **Appendix 2** Children and Families Committee.
- **Appendix 3** Corporate Policy Committee.
- **Appendix 4** Economy and Growth Committee.
- **Appendix 5** Environment and Communities Committee.
- **Appendix 6** Finance Sub-Committee.
- **Appendix 7** Highways and Transport Committee.
- **Appendix 8** Update to the Treasury Management Strategy.
- **Appendix 9** Update to the Investment Strategy.

*Alex Thompson*

Director of Finance and Customer Services  
(Section 151 Officer)

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## 2022/23 Outturn Forecast - Financial Position

2022/23	Revised Budget
(GROSS Revenue Budget £474.2m)	(NET)
	£m
<b>SERVICE DIRECTORATES</b>	
Adult, Health and Integration	120.9
Children's Services	74.5
Place	81.7
Corporate Services	39.8
<b>CENTRAL BUDGETS</b>	
Capital Financing	18.9
Transfer to/(from) Earmarked Reserves	(2.7)
Corporate Contributions / Central Budgets	(4.7)
<b>TOTAL NET EXPENDITURE</b>	<b>328.4</b>
Business Rates Retention Scheme	(49.1)
Specific Grants	(24.6)
Council Tax	(254.7)
<b>Net Funding</b>	<b>(328.4)</b>
<b>NET (SURPLUS) / DEFICIT</b>	<b>-</b>

# Financial Stability

## Introduction

1. The Council has a track record of sound financial management. Nevertheless, in common with all UK local authorities the Council finds itself in a position where pressures on the revenue budget are intensifying as a result of rapid inflation, the legacy impact of the Coronavirus pandemic and increasing cost of living pressure on households. These issues have the effect of increasing the demand for services and increasing costs of services.
2. Complexity and market sustainability in Adults' and Children's Social Care remains the most significant financial pressure for the Council in the medium term. Rising inflation in fuel, utilities and wage levels are affecting costs across all services.
3. **Table 1** provides a service summary of financial performance. The current forecast is that services will be £18.6m over budget in the current year. The Action Plans provide further details and changes to service net budgets since the Medium-Term Financial Strategy are analysed in the **Appendices 1-7**.
4. Further items impacting on the level of the Council's balances are detailed in **Table 2** below on Central Budgets and Funding.

**Table 1 - Service Revenue Outturn Forecasts**

2022/23	Revised Budget	Forecast Outturn	Forecast Variance	FOR INFO COVID Costs Included in Totals
(GROSS Revenue Budget £474.2m)	(NET)			
	£m	£m	£m	£m
<b>SERVICE DIRECTORATES</b>				
Adult Social Care - Operations	117.5	128.5	11.0	4.9
Commissioning	3.4	4.1	0.7	-
Public Health	-	-	-	-
<b>Adult, Health and Integration</b>	<b>120.9</b>	<b>132.6</b>	<b>11.7</b>	<b>4.9</b>
Directorate	1.0	0.9	(0.1)	-
Children's Social Care	46.6	48.5	1.9	0.1
Strong Start, Family Help and Integration	8.3	8.3	-	0.1
Education & 14-19 Skills	18.6	20.3	1.7	0.5
<b>Children's Services</b>	<b>74.5</b>	<b>78.0</b>	<b>3.5</b>	<b>0.7</b>
Directorate	0.8	0.7	(0.1)	-
Environment & Neighbourhood Services	44.3	46.2	1.9	2.3
Growth & Enterprise	22.8	23.1	0.3	0.1
Highways & Infrastructure	13.8	14.3	0.5	1.6
<b>Place</b>	<b>81.7</b>	<b>84.3</b>	<b>2.6</b>	<b>4.0</b>
Directorate	1.9	1.9	-	-
Finance & Customer Services	11.9	12.3	0.4	-
Governance & Compliance Services	11.7	11.2	(0.5)	-
Communications	0.7	0.7	-	-
HR	2.4	2.2	(0.2)	-
ICT	9.3	10.4	1.1	-
Policy & Change	1.9	1.9	-	-
<b>Corporate Services</b>	<b>39.8</b>	<b>40.6</b>	<b>0.8</b>	-
<i>For Info</i>				
<b>TOTAL SERVICES NET EXPENDITURE</b>	<b>316.9</b>	<b>335.5</b>	<b>18.6</b>	<b>9.6</b>

**Table 2 – Central Budgets and Funding Outturn Forecasts**

2022/23	Revised Budget	Forecast Outturn	Forecast Variance
(GROSS Revenue Budget £474.2m)	(NET)		
	£m	£m	£m
<b>CENTRAL BUDGETS</b>			
Capital Financing	18.9	18.9	-
Transfer to/(from) Earmarked Reserves	(2.7)	(8.7)	(6.0)
Corporate Contributions / Central Budgets	(4.7)	(5.7)	(1.0)
<b>Central Budgets</b>	<b>11.5</b>	<b>4.5</b>	<b>(7.0)</b>
Business Rates Retention Scheme	(49.1)	(49.1)	-
Specific Grants	(24.6)	(24.6)	-
Council Tax	(254.7)	(254.7)	-
<b>Net Funding</b>	<b>(328.4)</b>	<b>(328.4)</b>	<b>-</b>

### Outturn Impact

- The financial impact of the outturn forecast could decrease balances by £11.6m. This is over 75% of the Council's General Reserves balance, so mitigating actions must be taken to reduce the pressure during the year. Any deficit at the end of the year will be drawn down from the Medium-Term Financial Strategy Earmarked Reserve in the first instance, but drawdowns from that reserve are already factored in to the MTFs to manage the effects of variations in spending and income in specific years.
- The Council will continue to manage and review the financial forecasts in response to emerging pressures and how this affects the Council's revenue budget.

### Collecting Local Taxes for Local Expenditure

- Cheshire East Council collects Council Tax and Non Domestic Rates for use locally and nationally.

### Council Tax

- Council tax is set locally and retained for spending locally. Council tax was set for 2022/23 at £1,626.24 for a Band D property. This is applied to the taxbase.
- The taxbase for Cheshire East reflects the equivalent number of domestic properties in Band D that the Council is able to collect council tax from (after adjustments for relevant discounts, exemptions and an element of non-collection). The taxbase for 2022/23 was agreed at 156,607.48 which, when multiplied by the Band D charge, means that the expected income for the year is £254.7m.
- In addition to this, Cheshire East Council collects council tax on behalf of the Cheshire Police and Crime Commissioner, the Cheshire Fire Authority and Parish Councils. **Table 3** shows these amounts separately, giving a total budgeted collectable amount of £313.8m.
- This figure is based on the assumption that the Council will collect at least 99% of the amount billed. The Council will always pursue 100% collection, however to allow for non-collection the amount billed will therefore exceed the budget.
- This figure may also vary during the year to take account of changes to Council Tax Support payments, the granting of discounts and exemptions, and changes in numbers and value of properties. The amount billed to date is £315.3m.

**Table 3 – Cheshire East Council collects Council Tax on behalf of other precepting authorities**

	£m
Cheshire East Council	254.7
Cheshire Police and Crime Commissioner	36.9
Cheshire Fire Authority	12.9
Town and Parish Councils	9.3
<b>Total</b>	<b>313.8</b>

13. **Table 4** shows collection rates within three years, and demonstrates that 99% collection is on target to be achieved within this period.

**Table 4 – 99% of Council Tax is collected in three years**

Financial Year	CEC Cumulative			
	2018/19	2019/20	2020/21	2021/22
	%	%	%	%
After 1 year	98.2	97.9	97.4	97.8
After 2 years	99.0	98.8	98.3	**
After 3 years	99.2	98.9	**	**

\*\*data not yet available

14. The council tax in-year collection rate for the period up to the end of September 2022 is 56.1%. This is a small decrease of 0.2% on the previous year, possibly indicating current cost of living pressures. Additionally, significant numbers of council tax staff have been supporting the government's energy

rebate payments which has impacted resource normally involved in collection.

15. Council tax support payments were budgeted at £18.4m for 2022/23 and at the end of September the total council tax support awarded was £18.9m.
16. During 2021/22 there was a consultation and review of the Council Tax Support scheme resulting in some amendments being made. The revised scheme was confirmed by full Council in December 2021.
17. Council tax discounts awarded are £28.6m which are comparable to the same period in 2021/22. A small increase is attributable to work related to raising awareness of the discounts available to residents.
18. Council tax exemptions awarded is £7.2m which although broadly in line with previous years shows a slight increase due to reasons shown at 17.

### Non-Domestic Rates (NDR)

19. NDR is collected from businesses in Cheshire East based on commercial rateable property values and a nationally set multiplier. The multiplier changes annually in line with inflation and takes account of the costs of small business rate relief.
20. The small business multiplier applied to businesses which qualify for the small business relief was set at 49.9p in 2022/23. The non-domestic multiplier was set at 51.2p in the pound for 2022/23.
21. **Table 5** demonstrates how collection continues to improve even after year end. The table shows how over 99% of non-domestic rates are collected within three years.

22. The business rates in-year collection rate for the period up to the end of September 2022 is 58.6%. This is a significant increase on last year and begins to revert collection rates back to pre pandemic figures. A return to standard collection processes and government support through additional reliefs has assisted the recovery in collection.

**Table 5 – Over 99% of Business Rates are collected within three years**

Financial Year	CEC Cumulative			
	2018/19	2019/20	2020/21	2021/22
	%	%	%	%
After 1 year	98.5	98.2	92.4	95.6
After 2 years	99.4	98.4	97.4	**
After 3 years	99.4	99.2	**	**

\*\*data not yet available

# Appendices to the Financial Review 2022/23

**November 2022**

# **Appendix 5 : Environment and Communities Committee**

## **Contents**

### **Environment and Communities Committee Extracts**

- 1. Changes to Revenue Budget 2022/23 since Medium Term Financial Strategy**
- 2. Action Plan 2022/23 as reported to Corporate Policy Committee 6 October 2022**
- 3. Corporate Grants Register**  
**Table 1: Environment and Communities Committee Grants**
- 4. Debt Management**
- 5. Capital Strategy**
- 6. Reserves Strategy**

## Appendix 5

### Environment and Communities Committee

#### 1. Changes to Revenue Budget 2022/23 since Medium Term Financial Strategy

	MTFS Net Budget £000	Additional Grant Funding £000	Restructuring & Realignments £000	Revised Net Budget £000
<b>Environment and Communities</b>				
Environment & Neighbourhood Service	44,373	10	(18)	44,365
	44,373	10	(18)	44,365

## 2. Action Plan 2022/23 as reported to Corporate Policy Committee 6 Oct 2022

Environment and Communities Committee	Exp £m	Inc £m	Net Revised Budget £m	MTFS Proposal	Value 2022/23 £m	MTFS Ref	RAG Rating	Comments	Variance from MTFS 2022/23 £m
Environment and Neighbourhood Services	54.7	-10.4	44.3	Pay Inflation	1.323	3&4	Red (will not achieve)	Represents current estimate of the impact on Committee services in excess of the MTFS, from a nationally negotiated pay award.	0.383
				Orbitas income and management fee	0.021	17	Green (on track and should achieve)		0.000
				Strategic Leisure Review	-0.250	18	Amber (on track but may not achieve all)	Engagement with CLT and Everybody to identify options to deliver savings. There are limited options to achieve required savings without reducing scope of services. The financial impact in 2022/23 is mitigated by an equivalent contribution by Public Health to the leisure commissioning budget. This has not been agreed for future years. There does however remain a pressure in Facilities Management (Economy & Growth Committee).	0.000

Environment and Communities Committee	Exp £m	Inc £m	Net Revised Budget £m	MTFS Proposal	Value 2022/23 £m	MTFS Ref	RAG Rating	Comments	Variance from MTFS 2022/23 £m
				Review of governance of ASDVs and seeking increased opportunities for savings / commercial opportunities	-0.100	20	Red (will not achieve)	This proposal is for the Council to receive a share of the profits from commercial activity undertaken by ANSA or Orbitas. This requires further negotiation between the Finance Sub-Committee (acting as shareholder) with the Council's wholly owned companies on payment of a dividend in 2022/23 from the retained earnings. Updated for 2021/22 proposal of £100k not achieved.	0.200
				CCTV migration to wireless networks	-0.085	10	Amber (on track but may not achieve all)	The procurement process has now begun following a 12 month delay. The delayed savings will be mitigated in 2022/23 via favourable variances elsewhere in Regulatory Services.	0.086
				Everybody Sport and Recreation Annual Management Fee	-0.042	21	Green (on track and should achieve)		0.000

Environment and Communities Committee	Exp £m	Inc £m	Net Revised Budget £m	MTFS Proposal	Value 2022/23 £m	MTFS Ref	RAG Rating	Comments	Variance from MTFS 2022/23 £m
				Regulatory Services and Environmental Health ICT procurement	-0.009	13	Amber (on track but may not achieve all)	The implementation of the new system has been delayed but the required savings will be mitigated via favourable variances in Regulatory Services.	0.000
				Waste Contract Inflation and Tonnage Growth	0.644	53	Green (on track and should achieve)		0.000
				Tree Risk Management	0.500	54	Green (on track and should achieve)		0.000
				Environment Strategy and Carbon Neutrality	0.020	56	Green (on track and should achieve)		0.000
				Investment in improving the customer experience in Planning Services	0.500	58	Green (on track and should achieve)	It is likely that not all of the temporary budget will be spent in 2022/23 and so there will be a request to carry forward the residual into 2023/24 to complete the implementation of the Planning Service Improvement Programme.	0.000

Environment and Communities Committee	Exp £m	Inc £m	Net Revised Budget £m	MTFS Proposal	Value 2022/23 £m	MTFS Ref	RAG Rating	Comments	Variance from MTFS 2022/23 £m
				Surplus / loss from CEC Services provided by Ansa		New		Increased waste tonnages as a legacy of Covid. This is resulting in increased crews, increased fuel, and increased disposal costs. It also means that legacy savings from the Route and Rota review following the move to the Environmental Hub are unrealisable. This has been partly mitigated in 2022/23 from higher recycling income. Further analysis is being undertaken to understand whether the rate of new houses being occupied compared to MTFS assumptions is a contributing factor. 22-23 Environment temporary impacts (mainly recycling income) - Temporary benefit in 22-23 only - Recycling income benefit of £1.410m plus HWRC contract benefits. Use of ANSA reserve (£0.3m)	0.457
				Environmental Hub maintenance		New		This reflects the increased costs of operating a modern facility. The shortfall has previously been funded by favourable variances in Facilities Management budgets.	0.306
				Ansa / Orbitas Directors		New		This saving from 2021/22 is not achievable as the Directors of Ansa continue to be remunerated.	0.040

Environment and Communities Committee	Exp £m	Inc £m	Net Revised Budget £m	MTFS Proposal	Value 2022/23 £m	MTFS Ref	RAG Rating	Comments	Variance from MTFS 2022/23 £m
				Renumeration					
				Markets business rates		New		Result of unoccupied market stalls.	0.032
				Orbitas inflation impact		New		In-year pressure.	0.051
				Bereavement Income surplus		New			-0.134
				Environment - other various		New		Commissioner mitigations.	-0.151
				Planning and Building Control income		New		There are proposals under planning reform to increase planning fees by 25-35% that may mitigate this pressure and it is unclear when these increases will take effect. The proposal is subject to consultation and legislative change.	1.080
				Planning and Building Control Mitigations		New		Mitigating actions to cover covid pressures above, predominantly vacancy savings.	-0.081

Environment and Communities Committee	Exp £m	Inc £m	Net Revised Budget £m	MTFS Proposal	Value 2022/23 £m	MTFS Ref	RAG Rating	Comments	Variance from MTFS 2022/23 £m
				Licensing income		New		There is a pressure on licensing income from taxi licensing. This reflects a reduction in the number of drivers following Covid.	0.029
				Public burials		New		Increased numbers of public burials.	0.016
				Regulatory Services mitigating actions		New		Mitigating actions to cover covid pressures above. These include vacancy savings, reduced mileage and increased income. Grants and the balance of a provision have also been released.	-0.224
				Libraries income		New		There has been a change in use of libraries since Covid lockdowns that has resulted in a reduction in income particularly from Adults.	0.165
				Libraries Mitigating Actions		New		Mitigating actions to cover Covid pressures above, predominantly vacancies £150k predicted variance.	-0.164
				Dir /Leisure/ EP/ ASB&CEO		New		Mitigating actions to improve outturn position.	-0.045
				Waste		New		Education on residual waste reduction Review Commissioner / Provider responsibilities (possible access to Ansa reserves / surplus from recyclates).	

Environment and Communities Committee	Exp £m	Inc £m	Net Revised Budget £m	MTFS Proposal	Value 2022/23 £m	MTFS Ref	RAG Rating	Comments	Variance from MTFS 2022/23 £m
				Workforce		New		Revise vacancy forecasts to reflect recruitment difficulties. Slow down recruitment where feasible / safe. Use specific reserves for exit costs (per MTFS). Updated staffing forecasts reflecting current recruitment timescales have been built into figures on lines above.	
				Transformation		New		Use flexible receipts to capitalise costs of transformation - Planning Deep Dive	-0.160
<b>Total</b>	<b>54.7</b>	<b>-10.4</b>	<b>44.3</b>		<b>2.522</b>				<b>1.886</b>

### 3. Corporate Grants Register

Table 1 – Corporate Grants Register

Grants 2022/23	Revised Forecast FR1 2022/23 £000	Latest Forecast 2022/23 £000	Change from FR1 2022/23 £000	Treatment of Grant  <i>Notes 2 - 5</i>
<b>ENVIRONMENT &amp; COMMUNITIES</b>				
<b>Specific Use (Held within Services)</b>	387	387	0	
<b>General Purpose (Held Corporately)</b>				
Neighbourhood Planning Grant	10	10	0	
<b>TOTAL ENVIRONMENT &amp; COMMUNITIES</b>	<b>397</b>	<b>397</b>	<b>0</b>	

Notes

- 1 The Dedicated Schools Grant, Pupil Premium Grant, Sixth Form Grant and Other School Specific Grant from the Education Funding Agency (EFA) figures are based on actual anticipated allocations. Changes are for in-year increases / decreases to allocations by the DfE and conversions to academy status.
- 2 SRE - Supplementary Revenue Estimate requested by relevant service.
- 3 ODR - Officer Decision Record to approve immediate budget change to relevant service.
- 4 Reserves - transfer to reserves at year end.
- 5 Balances - amount will be included as a variance to budget.

3.1 Cheshire East Council receives two main types of Government grants; specific use grants and general purpose grants. Specific use grants are held within the relevant service with a corresponding expenditure budget. Whereas general purpose grants are held in central budgets with a

corresponding expenditure budget within the allocated service area.

3.2 Spending in relation to specific use grants must be in line with the purpose for which it is provided.

## 4. Debt Management

	Outstanding Debt £000	Over 6 months old £000
<b>Environment and Communities Committee</b>		
Environment and Neighbourhood Services	1,193	210

# 5. Capital Strategy

## Environment and Communities

## CAPITAL

### CAPITAL PROGRAMME 2022/23-2025/26

Scheme Description	Total Approved Budget	Prior Years	Forecast Expenditure				Total Forecast Budget 2022/26	Forecast Funding					Total Funding
			Forecast Budget 2022/23	Forecast Budget 2023/24	Forecast Budget 2024/25	Forecast Budget 2025/26		Grants	External Contributions	Revenue Contributions	Capital Receipts	Prudential Borrowing	
		£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
<b>Committed Schemes</b>													
<b>Environment Services</b>													
Bereavement Service Data System	35	0	35	0	0	0	35			35			35
Browns Lane, Wilmslow Play Area	570	541	29	0	0	0	29		29				29
Congleton Household Waste Recycling Centre Development	50	20	15	15	0	0	30					30	30
Crewe Towns Fund - Pocket Parks	20	3	18	0	0	0	18	18					18
Energy Improvements at Cledford Lane	985	825	160	0	0	0	160					160	160
Future High Street Funding - Sustainable Energy Network	2,577	150	2,427	0	0	0	2,427					2,427	2,427
Green Investment Scheme (Solar Farm)	3,950	64	3,886	0	0	0	3,886					3,886	3,886
Household Bins Schemes	50		50	0	0	0	50					50	50
Litter and Recycling Bins	152		50	50	52	0	152					152	152
Little Lindow Open Space Improvements		7	62	0	0	0	62		62				62
Macclesfield Cenotaph Planting	1	1	1	0	0	0	1		1				1
Nantwich Cemetery Roadway Extension	75	60	15	0	0	0	15			15			15
Newtown Outdoor Pitch Improvements	51	39	12	0	0	0	12		12				12
Newtown Sports Facilities Improvements	99	81	18	0	0	0	18		18				18
Park Development Fund	450		150	150	150	0	450					450	450
Pastures Wood	51	28	23	0	0	0	23			23			23
Pheasant Walk Play Area Improvements	18	9	9	0	0	0	9		9				9
Queens Park Lake Planting	18	17	1	0	0	0	1		1				1
Queens Park Play Area Improvements	200	100	100	0	0	0	100		100				100
Rotherhead Drive Open Space and Play Area	141	111	30	0	0	0	30		30				30
Victoria Park Pitch Improvements	29	5	24	0	0	0	24		24				24
Victoria Park Improvements	80	7	73	0	0	0	73		73				73

CAPITAL PROGRAMME 2022/23-2025/26

Scheme Description	Total Approved Budget	Prior Years	Forecast Expenditure				Total Forecast Budget 2022/26	Forecast Funding					Total Funding
			Forecast Budget 2022/23	Forecast Budget 2023/24	Forecast Budget 2024/25	Forecast Budget 2025/26		Grants	External Contributions	Revenue Contributions	Capital Receipts	Prudential Borrowing	
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
<b>Committed Schemes</b>													
<b>Neighbourhood Services</b>													
Congleton Leisure Centre	12,225	6,272	5,953	0	0	0	5,953					5,953	5,953
Crewe Towns Fund - Cumberland Arena	80		80	0	0	0	80	80					80
Crewe Towns Fund - Valley Brook Green Corridor	100	2	98	0	0	0	98	98					98
Macclesfield Leisure Centre Improvements	3,865	3,398	467		0	0	467					467	467
Middlewich Leisure Centre	60	6	54	0	0	0	54					54	54
Nantwich Pool Improvements	2,250	1,923	327	0	0	0	327					327	327
Libraries - Next Generation - Self Service	52		52	0	0	0	52					52	52
Poynton Leisure Centre	4,606	391		2,000	2,215	0	4,215					4,215	4,215
<b>Planning Services</b>													
Replacement Planning & Building	410	320	90		0	0	90					90	90
Regulatory Services & Environmental Health ICT System	313	240	73	0	0	0	73			49		25	73
Replacement CCTV Cameras	205	0	205	0	0	0	205			205			205
<b>New Schemes</b>													
<b>Environment Services</b>													
Chelford Village Hall Open Space and Sport Improvements	164	0	164	0	0	0	164		164				164
Household Waste Recycling Centres	860	0	500	360	0	0	860					860	860
Carbon Offset Investment	1,000	0	125	125	250	500	1,000					1,000	1,000
Fleet Vehicle Electric Charging	585	0	164	164	141	116	585					585	585
Solar Energy Generation	14,180	0	300	13,880		0	14,180					14,180	14,180
Hield Grove Play Area	21	0	21			0	21		19			2	21
Barony Skate Park Refurbishment	100	0	100			0	100	100					100
Pitch Improvements - Alderley Edge Park and Chorley Hall Lane Playing Fields	25	0	25			0	25		25				25
Woodland South of Coppice Way, Handforth	89	0	89			0	89		89				89
Over Peover Amenity Improvements	10	0	10			0	10		10				10
<b>Total Environment and Communities Schemes</b>	<b>50,802</b>	<b>14,617</b>	<b>16,087</b>	<b>16,744</b>	<b>2,808</b>	<b>616</b>	<b>36,254</b>	<b>296</b>	<b>668</b>	<b>327</b>	<b>0</b>	<b>34,964</b>	<b>36,254</b>

## 6. Reserves Strategy

### Environment and Communities Committee

Name of Reserve	Opening Balance 1st April 2022 £000	Forecast Movement in Reserves 2022/23 £000	Forecast Closing Balance 31st March 2023 £000	Notes
<b>Environment and Neighbourhood Services</b>				
Strategic Planning	568	(295)	273	To meet costs associated with the Local Plan - site allocations and minerals and waste DPD.
Trees / Structures Risk Management	202	(52)	150	New reserve to respond to increases in risks relating to the environment, in particular the management of trees, structures and dealing with adverse weather events.
Spatial Planning - revenue grant	89	(47)	42	
Neighbourhood Planning	82	(71)	11	
Air Quality	36	(36)	0	Air Quality Management - DEFRA Action Plan.
Street Cleansing	26	(26)	0	Committed expenditure on voluntary litter picking equipment and electric blowers, due to be fully utilised in 2022-23.
Custom Build & Brownfield Register	19	(19)	0	
Community Protection	17	(17)	0	
Licensing Enforcement	15	(15)	0	Three year reserve to fund a third party review and update of the Cheshire East Council Taxi Licensing Enforcement Policies.
Flood Water Management (Emergency Planning)	2	0	2	Plans to draw down the reserve in 2023/24 relating to Public Information Works.
<b>ENVIRONMENT AND COMMUNITIES TOTAL</b>	<b>1,056</b>	<b>(578)</b>	<b>478</b>	

**Work Programme – Environment and Communities Committee – 2022/23**

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/13/22-23	10 Nov 2022	Cheshire East Enforcement Policy Review	To consider a report presenting information on the review of the Cheshire East Enforcement Policy including any amendments that have been made to the existing version published in 2019. The report will seek approval of a new 2022 Policy.	Director of Environment and Neighbourhood Services	Yes	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/14/22-23	10 Nov 2022	Local Development Scheme 2022	To review a revised Local Development Scheme setting out a timetable for the preparation of the Local Plan. It will remove the, now withdrawn, Crewe Hub Area Action Plan which forms part of the current LDS. It will set out a revised timetable for the preparation of the Minerals and Waste Plan and also a new timetable for the Local Plan Strategy Update.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Welcoming, safe and clean neighbourhoods	N/A
EC/23/22-23	10 Nov 2022	Notice of Motion: Fire Sprinklers	To respond to the notice of motion at full Council Meeting of 20 July 2022 (Sprinklers Save Lives and Protect Property from Fire) in relation to the fitting of fire sprinklers in buildings in the borough. The motion proposed that the Council be a leader in securing the fitting of sprinklers in buildings in the borough.	Director of Environment and Neighbourhood Services	N/A	No	No	Welcoming, safe and clean neighbourhoods	N/A

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/18/22-23	10 Nov 2022	Regulatory Services Enforcement Policy Review	To review the Regulatory Services Enforcement Policy including any amendments that have been made to the existing version published in 2019 and consideration of a new 2022 Policy.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/19/22-23	10 Nov 2022	Revised Statement of Gambling Principles	To consider the gambling licensing policy following a review and updating. The review is required to be undertake very three years as required by the legislation.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/17/22-23	10 Nov 2022	Mid Year Review Financial Report	To receive an update on the financial position for 2022/23. To note or approve virements and supplementary estimates as required.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/31/21-22	10 Nov 2022	Standing Item: Members Advisory Panel: Cheshire East Cemeteries Strategy Review	To receive an oral update from the Chair of the Member Advisory Panel.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/26/22-23	10 Nov 2022	Standing Item: Working Group: Household Waste & Recycling Centres		Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Listen, learn and respond to our residents, promoting opportunities for a two-way conversation	N/A
EC/24/22-23	26 Jan 2023 2 Feb 2023	Notice of Motion: Notice of Motion: Safe Night-Time Travel for Workers	To consider the Notice of Motion raised at Council on 19.10.22 in respect of Safe Night-Time Travel for Workers.	Director of Infrastructure and Highways Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A transport network that is safe and promotes active travel	N/A

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/25/22-23	2 Feb 2023	Notice of Motion: Hydraulic Fracturing (Fracking)	To consider the Notice of Motion raised at Council on 19.10.22 in respect of Hydraulic Fracturing (Fracking).	Director of Environment and Neighbourhood Services	N/A	N/A	Yes	Be a carbon neutral council by 2025	N/A
EC/15/22-23	2 Feb 2023	Animal Welfare Policy	To consider the Animal Welfare Policy.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/21/22-23	2 Feb 2023	Carbon Neutral Programme Progress Report	To consider the Carbon Neutral Programme Progress Report.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	Be a carbon neutral council by 2025	N/A
EC/04/22-23	2 Feb 2023	Medium Term Financial Strategy Budget Consultation	To respond to the budget consultation for Environment, Neighbourhoods and Communities.	Director of Finance and Customer Services (s151 Officer)	N/A	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/03/22-23	2 Feb 2023	Mid Year Review Financial Report 2022/23	To receive the mid-year financial review for the Environment and Communities Committee and to note or approve virements and supplementary estimates as required.	Director of Finance and Customer Services (s151 Officer)	N/A	N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
EC/27/22-23	30 Mar 2023	Review of the Cemeteries Strategy	To consider the review of the Cemeteries Strategy initiated by the Environment and Communities Committee in November 2021 of which a Member Advisory Panel was established to advise the review.	Director of Environment and Neighbourhood Services	Yes	Yes	Yes	Listen, learn and respond to our residents, promoting opportunities for a two-way conversation	N/A

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