

Portfolio Holder Decision

Report Title: Regulatory Services and Health: Service Specific Enforcement Policy

Portfolio Holder: Councillor Mick Warren, Portfolio Holder for Communities

Senior Officer: Frank Jordan, Executive Director Place

1. Report Summary

- 1.1. On 8 October 2019, Cabinet approved the updated Cheshire East Enforcement Policy, an overarching enforcement policy for use by all regulatory services within Cheshire East.
- 1.2. The Cabinet report also referenced the suite of service specific policies that are used by individual regulatory teams. These policies provide further clarity for those individuals or businesses subject to enforcement action and have been in place since their development in 2016. These policies are particularly important given that not every sanction listed within the overarching policy is available to every regulatory team and this could therefore lead to ambiguity and unnecessary challenge.
- 1.3. Cabinet agreed to delegate this approval process to those Portfolio Holders that have specific responsibility for enforcement activity. This report presents the updated policy for Regulatory Services and Health.

2. Recommendations

- 2.1. That the Portfolio Holder approve the service specific enforcement policy for Regulatory Services and Health, which is contained as Appendix 1 to this report.
- 2.2. That the approved service specific policy is updated on the Cheshire East Council website and be implemented by Regulatory Services and Health in the provision of its regulatory activities.

3. Reasons for Recommendations

- 3.1. The Corporate Plan outlines the six strategic outcomes for the Council. Outcome 1: *Our local communities are strong and supportive*, identifies our role as a proactive and enforcing council and therefore, to support this there is a need to be clear about our approach to enforcement.
- 3.2. A number of sanctions are available across the wide range of enforcement services. However, in some cases, sanctions are limited to a specific service area. This service specific policy therefore provides clarity on enforcement options to those who are the subject of enforcement action by the Regulatory Services and Health Team.
- 3.3. The continual changes to legislation and the creation of new and additional sanctions requires an expedient update and approval process to ensure that services can take advantage of new sanctions when they become available. The Portfolio Holder approval route will provide this expediency.

4. Other Options Considered

- 4.1. No other options have been considered. On 8 October 2019, Cabinet agreed that the approval of service specific policies is delegated to the relevant Portfolio Holder.

5. Background

- 5.1. The Cheshire East Enforcement Policy was updated and approved by Cabinet on 8 October 2019.
- 5.2. In parallel with this update, the service specific policy for Regulatory Services and Health was reviewed to ensure that it was accurate and reflective of all of the discrete service areas within the Team.
- 5.3. The largest change to the service specific policy was an update of the functions and sanctions within Regulatory Services and Health following the transfer of Trading Standards Investigations and CCTV to the service; previously only the Business and Regulation aspect of Trading Standards had been included with Regulatory Services and Health.
- 5.4. Other amendments included;
 - 5.4.1 Further clarity on statutory and discretionary functions and the wider factors taken into consideration by the service when determining the most appropriate regulatory approach.
 - 5.4.2 A general review of wording and information to ensure that it remains accurate.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. The objective of any enforcement policy is to support the underlying mechanisms 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.
- 6.1.2. A policy provides that there will be a consistent approach across the Council that all officers must follow to ensure that non-compliance with legislation is dealt with fairly and proportionately.
- 6.1.3. The existence of a 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.

6.2. Finance Implications

- 6.2.1. Implementing this service specific enforcement policy would incur staff time but no other additional costs. Staffing costs are already covered by base budgets within the relevant service areas.
- 6.2.2. Some enforcement activities incur a charge designed to solely recover the cost of the enforcement action taken and are recoverable from those subject to 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.

6.3. Policy Implications

- 6.3.1. The Enforcement Policy contributes to *Strategic Outcome 1: Our local communities are strong and supportive* through being a proactive and enforcing council.

6.4. Equality Implications

- 6.4.1. The service specific policy aims to outline a transparent and consistent approach to enforcement across Cheshire East. There are therefore no equality implications resulting from its adoption and application.

6.5. Human Resources Implications

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

6.6. Risk Management Implications

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

6.6.2. Once adopted failure to comply with one's own Enforcement Policy is open to legal challenge as an abuse of process.

6.7. Rural Communities Implications

6.7.1. There are no implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are no implications for children and young people.

6.9. Public Health Implications

6.9.1. 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.

6.10. Climate Change Implications

6.10.1. 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.

7. Ward Members Affected

7.1. All wards and ward members. The implementation of the service specific policy for Regulatory Services and Health is borough wide.

8. Consultation & Engagement

8.1. None.

9. Access to Information

9.1. Cabinet Report 8 October 2019 – Cheshire East Council Enforcement Policy:- [Cabinet Report 8 October 2019](#)

9.2. Cheshire East Council Enforcement Policy October 2019: - [Enforcement Policy October 2019](#)

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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