

## **Portfolio Holder Decision**

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**Report Title:** Building Control: Service Specific Enforcement Policy

**Portfolio Holder:** Councillor Toni Fox, Portfolio Holder for Planning

**Senior Officer:** Frank Jordan, Executive Director Place

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### **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 are 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 the approval of service specific policies to those Portfolio Holders that have responsibility for enforcement activity. This report presents the updated policy for Building Control Enforcement.

### **2. Recommendations**

- 2.1. That the Portfolio Holder approves the service specific enforcement policy for Building Control Enforcement which is provided as an Appendix to this report.

### **3. Reasons for Recommendations**

- 3.1. 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 Building Control Team.

- 3.2. 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.

#### **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 be 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. The service specific policy for Building Control has been reviewed to ensure it is accurate and reflective of current legislation and actions undertaken by the Building Control Team.
- 5.3. There have been no fundamental changes to the service specific policy. However, it has been reviewed for robustness and emphasis and to ensure that it sign posts customers to other services both internal and external where relevant.

#### **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. Conditions attached to some reports relating to dangerous structures however may incur significant costs, which can be recovered through the legal process.

### 6.3. **Policy Implications**

6.3.1. Building Control supports the Council's vision set out in the 2020-24 Corporate Plan for an open, fairer, greener Cheshire East as building regulations are the means by which minimum energy efficiency standards in new homes are regulated.

### 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. Building Control 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. The government consider the Building

Regulations to be a key instrument to achieving targets in this area and as such the administration of the regulatory activity covered by this policy will have a positive impact upon the carbon emissions for the region.

**7. Ward Members Affected**

- 7.1. All wards and ward members. The implementation of the service specific policy for Building Control 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.  
9.2. Appendix – Building Control Enforcement Policy

**10. Contact Information**

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

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Job Title: Principal Manager Building Control & Planning Systems

Email: [ian.bunn@cheshireeast.gov.uk](mailto:ian.bunn@cheshireeast.gov.uk)

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Date	Version	Author	Meeting report presented to	Consultees		Summary of amendments made
				Name of officers consulted	Date consulted	
04 <sup>th</sup> March 2021	v.1.0	IB	Portfolio Holder	David Malcolm Paul Bayley	04 <sup>th</sup> March 2021	Minor amendments made by PB