

Environment and Communities Committee

Date of Meeting:	7 th July 2021
Report Title:	Neighbourhood Services – Service Specific Enforcement Policies
Report of:	Frank Jordan – Executive Director Place
Report Reference No:	EC/04/21-22
Ward(s) Affected:	All

1. Executive Summary

- 1.1. Neighbourhood services is responsible for a number of enforcement activities on behalf of the council, including fly-tipping, littering, public space protection orders and anti-social behaviour. In order to have the best opportunity for successful enforcement against these activities the service requires up to date and clear polices.
- 1.2. The Council's Corporate Plan 2021-25 sets out our vision for a more open, fairer, greener Cheshire East. The plan also sets out priorities under the three broad aims including "*welcoming, safe and clean neighbourhoods*". These polices will support the achievement of this priority and in particular the action to have "*clear and integrated enforcement approach with relevant fit for purpose polices for each enforcement service*".
- 1.3. Cabinet approved the overarching Cheshire East Enforcement Policy on 8th October 2019 and delegated authority to Portfolio Holders that have responsibility for enforcement activity to approve changes to service specific policies as required. Following the transition to the committee system for decision making the Environment and Communities committee is responsible for determining policies in relation to anti-social behaviour and community enforcement.

2. Recommendations

- 2.1. That the committee approves the proposed policies for Community Enforcement, Anti-Social Behaviour Enforcement, and Body Worn Camera as set is appendices 1-3.

3. Reasons for Recommendations

- 3.1.** There is a need to address ongoing issues around a number of enforcement activities. In order to achieve this, it is important to set out the council's expectations and what actions will be taken if they are not followed. This will enable officers to follow-up with education, engagement, encouragement and where necessary, enforcement activity.
- 3.2** The Body Worn Video policy sets out the Community Enforcement Team's intention to use body worn cameras as part of their day to day work. The cameras will allow officers to undertake their duties in a safe and effective way by allowing them to activate their cameras to protect themselves and the public. It also allows for more effective and efficient investigation allowing officers to film and capture pictures of fly tipping and evidence-based work, enhancing their investigative standards.

4. Other Options Considered

- 4.1.** In order to address, and where appropriate enforce against, the environmental offences and persistent anti-social behaviour listed within these policies there needs to be in a place up-to-date and fit for purpose policies, therefore no other options have been considered.

5. Background

- 5.1.** The overarching Cheshire East Enforcement Policy was updated and approved by Cabinet on 8 October 2019. The Policy was designed to apply to all regulatory areas covered by the council. Whilst some legislation and sanctions apply across the range of enforcement services, in some cases legislation and sanctions are limited to a specific service area. Service specific policies are therefore aimed at providing clarity on relevant legislation and enforcement options to those who are the subject of enforcement action.
- 5.2.** The council's enforcement policies provide guidance to officers, businesses and the public on the range of options that are available to achieve compliance with legislation and regulations. They are designed to help businesses and individuals understand our objectives and methods for achieving compliance as well as the criteria we consider when deciding the most appropriate response to a breach of legislation. The council follows the 4 Es approach to enforcement - engage, explain, encourage, and enforce only when there is a failure to cooperate or persistent breaches.

6. Consultation and Engagement

- 6.1.** There is no statutory requirement to consult on the draft enforcement policies. When consultation has been undertaken on similar policies previously, the response rate has been low. However, by following the 4 Es approach to enforcement the council's enforcement officers will seek to engage, explain and encourage residents and businesses to comply with legislation and regulations, and only enforce when necessary.

7. Implications

7.1. Legal

7.1.1. The local authority's duties and powers of enforcement in relation to the policies being proposed are in the main prescribed by:

- Environmental Protection Act 1990 (EPA 1990)
- Cleaner Neighbourhoods and Environment Act 2005
- Refuse Disposal (Amenity) Act 1978
- Anti Social Behaviour, Crime and Policing Act 2014
- Regulations of Investigatory Powers Act 2000 (RIPA)
- Police and Criminal Evidence Act 1984 (PACE)
- Criminal Procedure and Investigations Act 1996

7.1.2. The Body Worn Video cameras will be used in accordance with the following National Legislation and guidance at all times:

- General Data Protection Regulation
- Data Protection Act 2018
- Human Rights Act 1998
- Freedom of Information Act 2000
- Protection of Freedoms Act 2012
- Information Commissioners CCTV Codes of Practice
- Surveillance Camera Commissioners Codes of Practice

7.1.3. BWV Cameras, as is set out in the body of the policy document, will not be used for anything other than the overt recording of video footage in connection with the Council's enforcement activities. The policy also requires officers to announce that they are turning the cameras on. BMV Cameras may not be used for Covert or Directed Surveillance purposes. Directed Surveillance by Council Officers is only ever permissible when it has been approved by a Magistrates' Court in accordance with Part II of the Regulation of Investigatory Powers Act 2000

7.1.4. In clearly setting out the Council's Community Enforcement, Anti-Social Behaviour Enforcement and Body Warn Camera policies, residents will be in no doubt of what is expected of them. This clarity will enable the adoption of the 4 'Es' of enforcement, starting with engagement, education and encouragement to be carried out with the knowledge that, if enforcement action is required, the Council will be able to carry this out.

7.2. Finance

7.2.1. Implementing the service specific enforcement policies will incur staff time but no additional costs. Staffing costs are already covered by base budgets within Neighbourhood Services.

7.3. Policy

- 7.3.1. The adoption of these policies supports the council's priority within the Corporate Plan 2021-25 to provide welcoming, safe and clean neighbourhoods, to reduce anti-social behaviour and improve our environment.

7.4. Equality

- 7.4.1. An equality impact assessment has been undertaken; no equality implications have been identified.

7.5. Human Resources

- 7.5.1. There are no HR implications

7.6. Risk Management

- 7.6.1. There is a reputational risk to the Council in not having transparent and robust policies. There is also a risk that enforcement action would be ineffective without a robust policy.

7.7. Rural Communities

- 7.7.1. These policies will support enforcement of fly-tipping and anti-social behaviour across all neighbourhoods and communities of the borough, including rural communities.

7.8. Children and Young People/Cared for Children

- 7.8.1. There are no implications for Children and Young People/Cared for Children

7.9. Public Health

- 7.9.1. The enforcement policies should help in the reduction of incidents of fly tipping and ASB which should in return have a positive impact on residents' health through cleaner and safer neighbourhoods.
- 7.9.2. The use of Body Worn Cameras and Body Worn Video will assist in protection for officers undertaking their duties and general patrols under the relevant acts in which they are authorised to and also provide protection for members of public

7.10. Climate Change

- 7.10.1. There are no direct implications from the policies on climate change.

Access to Information

Contact Officer:	Christopher Allman – Head of Neighbourhood Services Christopher.allman@cheshireeast.gov.uk 01270 686689
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Appendices:	Appendix 1- Community Enforcement Policy Appendix 2- Anti-Social Behaviour Enforcement Policy Appendix 3- Body Worn Cameras Policy
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Background Papers:	Cheshire East Enforcement Policy
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