



Service
Specific Enforcement Policy
Community Enforcement
July 2021

To be read in conjunction with the Cheshire East Council
Corporate Enforcement Policy and Cheshire East Waste
management and Fly-tipping Policy

1. Aims of this Policy

1.1 To advise and inform businesses and individuals with regards to:

- The legislative powers available to the Community Enforcement Team in relation to the effective enforcement of waste and abandoned and nuisance vehicle offences
- The decision-making process when considering enforcement action

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

1.3 This policy must also be read in conjunction with Cheshire East Councils Waste Management and Fly tipping policy which provides details of the authority's expectations in relation to residents and businesses management of waste.

2. Introduction

2.1 The Council within its published corporate plan has a stated ambition to have 'Welcoming, safe and clean neighbourhoods' and in particular to use the full range of education, engagement and enforcement tools to protect our communities; and take formal enforcement action as appropriate, to reduce offending and increase compliance with the law from individuals or businesses.

2.2 The Community Enforcement Team are responsible for enforcement of waste management, fly tipping and nuisance and abandoned vehicle offences. The Community Enforcement Team are jointly managed alongside the Councils Anti-Social Behaviour Team, and are also responsible for:

- Enforcement of Public Spaces Protection Orders (including those tackling dog fouling and promoting responsible dog ownership – please see section 6.5 of our Anti-Social Behaviour Enforcement Policy for more information)
- Enforcement of Community Protection Notices (please see 6.6 of our Anti-Social Behaviour Enforcement Policy)
- Assisting the Anti-Social Behaviour Team with wider Neighbourhood and Community based Anti-Social Behaviour

The above responsibilities are covered in more detail within the Cheshire East Councils Anti-Social Behaviour Enforcement Policy. The list is not exhaustive but includes Community Enforcement Team's main additional functions.

The Community Enforcement Team's response to potential waste offences is underpinned by the Waste Management and Fly Tipping policy and identifies several issues which are likely to require legal remedies for Cheshire East to enforce against breaches of such.

3 Policy Guidance

3.1 For the purpose of this policy waste enforcement has been split into 5 main categories:

- Fly tipping

- Littering
- Domestic Waste/duty of care (for residents and individuals)
- Business Waste/duty of care
- Vehicles

3.2 In addition to the range of legislation available to the team, national guidance and codes of practice are considered when determining the most appropriate course of action to remedy a problem alongside in-house procedures for operational officers.

National guidance for all areas listed under 3.1 can be found on <https://www.gov.uk/>

3.3 The Community Enforcement Team possesses various powers and duties to deal with actual or potential breaches of waste management, abandoned and nuisance vehicle legislation and policy. In other words, although there are many things that the service must do, there are also many others which it may do only where it is expedient to do so. Where this discretion is available then the service will consider several wider factors and tests to determine its regulatory approach, taking into account the level of harm caused by the incident or contravention. Further information on these guiding principles can be found in Section 3.0 of the Cheshire East Corporate Enforcement Policy.

3.4 Enforcement action should not normally be considered as an initial remedy for any contraventions of legislation and policy. In most circumstances the Council's approach to enforcement of poor waste management, abandoned and nuisance vehicles will follow the 4 Es principles of Engage, Educate, Encourage, Enforce. Where possible officers should consider informal action/preventative measures in the first instance. However, there may be occasions, depending on the severity of the contravention, threshold or public interest tests within legislation where formal action will be considered as the most appropriate course of action.

3.5 Some of the enforcement actions identified within this policy are running in dedicated areas of the borough as pilot activities. Until such time that the pilots have been concluded, findings reviewed, and approaches agreed, there should be no expectation that the Council will be undertaking the use of these enforcement actions across the whole borough. This policy will be updated accordingly on completion of any pilots.

3.6 In relation to waste enforcement the Community Enforcement Team will make every attempt to attend reports of offences. Where there are high levels of incidents, priority will be given to clear the waste as soon as possible (if on Local Authority Land). If on clearance of the waste, evidence is found our waste clearance team will work closely with the CET in order to ensure an appropriate investigation is conducted.

3.7 Where a waste, abandoned vehicle or nuisance vehicle offence has been witnessed by a member of public, it must be understood that in some circumstances without a formal witness statement it is very likely that pursuit of the suspected offence will not be possible.

4 Legislative Framework

4.1 The Community Enforcement Team has key legislative powers, under the Environmental Protection Act 1990 (EPA 1990), Cleaner Neighbourhoods and Environment Act 2005, and other legislation relating to the environment. These offer a wide range of powers to enable the CET to fulfil the duties for which it is responsible when dealing with waste, abandoned and nuisance vehicle offences.

4.2 The below list highlights the main legislative powers by which the Community Enforcement Team undertake its duties to investigate and take appropriate action in relation to waste offences and how investigations of such are undertaken:

- 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
- The Deregulation Act 2005
- Regulations of Investigatory Powers Act 2000 (RIPA)
- Police and Criminal Evidence Act 1984 (PACE)
- Criminal Procedure and Investigations Act 1996

4.3 Additional legislation by which the Community Enforcement Team operate under in line with any investigations undertaken can be found under section 3 of the of the Cheshire East Corporate Enforcement Policy. These include considerations under the Human Rights Act 1998 and the Data Protection Act 2018 and General Data Protection Regulations 2018 (GDPR)

5 Types of offences

5.1 As highlighted in 3.1 of this policy the 5 main areas of enforcement work the Community Enforcement Team are responsible are split into 5 main categories below.

5.2 **Fly tipping:** Large deposits of waste on private land (e.g. farmers land), highways and laybys, large bulky waste items such as sofas, fridges, beds, garden furniture etc.

Can be used against individuals or businesses.

5.2.1 **Bagged Waste:** There is no legal definition of what constitutes fly tipping other than offences set out in section 33 of the Environment Protection Act 1990 (highlighted below). The Litter and Refuse Code of Practise published by Defra in 2006 (last updated in September 2019) notes that a single plastic sack of rubbish should usually be considered fly tipping rather than litter. However, the use of the term “usually” indicates an acceptance that definitions cannot be rigid.

In this context, it is commonly assumed that fly tipping is as a result of deliberate, negative behaviour ranging from those that care little about their local amenities to those seeking to profit from the illegal dumping.

The Council recognises that using fly tipping legislation to enforce against individuals acting in a way that they believe to be a fair and reasonable manner, i.e. leaving out additional black bags to be collected alongside their refuse bin on collection day where the motivation is not negative, but rather is intended as being responsible, may not be considered as proportionate under this legislation.

This does not mean that bagged waste left in these circumstances will not be investigated where appropriate. In these cases, the council will look to investigate the matter under

different legislation outlined in this policy (such as 'duty of care', or 'section 46 notice') with an engage, educate and encourage approach in the first instance.

Examples of exceptions to this whereby bagged waste could be investigated under fly tipping legislation are as follows:

- Bagged waste left out/deposited on a non-collection day on any land that is not the persons own.
- Bagged waste left out in numbers that would indicate unusual waste behaviour, i.e. the illegal deposit of trade waste as domestic or quantity that would not normally fit in a domestic wheeled black bin.
- Repeat offenders i.e. those that regularly leave out excess waste as a result of refusing to engage with the council's recycling scheme (silver wheeled bins and garden waste bins etc.), or having documented warnings on a number of occasions in relation to presentation of bagged waste, whether that be on a collection day or not.

5.2.2 Legislation and formal enforcement if deemed appropriate

s33 Environment Protection Act 1990 – Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste:

Breach of legislation is a Criminal Offence

- Fixed Penalty Notice (FPN) of £400 with an option at officer's discretion to offer an early payment rate of £200 if paid within 14 days rising to £400 payable within 28 days of the original FPN being issued.
- Prosecution in Court leading to a fine and/or a term of imprisonment.

The Community Enforcement Team will work with the Environment Agency on identification of larger scale/industrial Fly tipping incidents.

5.3 **Littering:** Failing to throw your litter away in a bin or taking it away with you to throw it in your bin at home. This can include material associated with smoking, takeaway/food and food wrappers, tissues or small bags of waste (for instance leaving your picnic waste behind).

5.3.1 Legislation and formal enforcement if deemed appropriate

Sec 87 and 88 EPA 1990 provide that a person is guilty of an offence if he/she throws down, drops or otherwise deposits any litter in any place which is open to the air to which the public has access, with or without permission.

5.3.2 Breach of legislation is a Criminal Offence

- £80 Fixed Penalty notice or Prosecution in court.

5.4 **Domestic Waste/duty of care (for residents and individuals):**

Duty of care: Not undertaking checks to make sure that the person who is taking your waste away is a licensed waste carrier, and/or; not controlling your household waste property, which has or may allow it to escape onto land that is not yours (for example into the back of an alleyway or across the pavement at the front of your property).

Household waste receptacles: Being served a legal notice, outlining your responsibilities when presenting your wheeled bin for collection. Failure to comply with this notice may lead to a fine. *** This legislation is currently being piloted in specific*

*areas of the borough and this policy will be updated accordingly as and when the pilot has ended. ***

5.4.1 Legislation and formal enforcement if deemed appropriate

Sec 34 (2A) EPA 1990 – (duty of care for domestic waste)

This provides that the occupier of any domestic property has a legal obligation or Duty of Care to ensure waste is deposited or appropriately transferred to a licensed waste carrier.

5.4.2 Breach of legislation is a Criminal Offence

A person guilty of this offence is liable to an unlimited fine in either the magistrates' court or the crown court or issued a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of the fixed penalty. The fixed penalty amount for this offence is £200.

Sec 46 EPA 1990 – household waste receptacles (Black, Silver and Brown bins) – Notice served on properties in relation to how household wheeled bins should be presented for collection.

5.4.3 Breach of legislation gives rise to a Civil Penalty

- A series of written warnings under section 46b EPA 1990 (procedure of which is set out under section 46C EPA 1990)
- failure to comply with sec 46 and written warnings will result in a notice to issue a civil £60 Fixed Penalty Notice. (sec 46c EPA (currently pilot area only).

5.5 **Business Waste/Trade Waste/Duty of Care:**

- Escape of waste from a business waste container if it is overfilled or the lid of the container is not locked and as a result waste has escaped.
- Businesses failing to provide receipts evidencing payment to/transfer of waste to a registered company or waste site for business waste.
- Failure to register vehicle/business with the Environment agency as a waste carrier.

5.5.1 Legislation and formal enforcement if deemed appropriate

Sec 34 (1) EPA 1990– Duty of Care

Covers any person who imports, produces, keeps, treats or disposes of controlled waste and all businesses operating in the Cheshire East Borough Councils area must employ a registered waste carrier to collect waste or hold a waste carrier's licence to transport their own waste to another site or transfer station. The waste carrier must be authorised to take the waste for disposal.

A list of registered waste carriers can be found on the Environmental Agency website. All businesses have a duty to ensure that their waste is not dumped by another party and that it does not escape from their premises. They can be prosecuted if they fail in this duty.

All businesses must have two years' evidence of their waste management arrangements (for those operating for 2 years or more – those operating under this time will be asked for documentation dating back to the start of their registered business). This is known as a 'Waste Transfer Note or Duty of Care Certificate'. The CET team can ask at any time

for evidence of such documentation, and for those that do not have the information readily available a notice will be served under section 34(5) of the EPA 1990 requiring that they do so.

5.5.2 Breach of legislation is a Criminal Offence

- Failure to contain waste/preventing escape of waste/not being in control of waste may lead to a prosecution in court.
- Failure to supply waste documentation receipts to evidence transfer of business waste - £300 Fixed Penalty notice or prosecution in court.
- Failure to register as a trade waste business with Environment Agency (EA) – reportable to the EA.

5.6 Vehicle related offences

5.7 **Abandoned Vehicles**

Vehicles that are suspected as abandoned due to any of the below circumstances:

- (a) Untaxed – if just untaxed without any of the below then the vehicle will be reported to the DVLA
- (b) No current vehicle keeper on the Driver and Vehicle Licensing Agency's (DVLA) record
- (c) Stationary for a significant amount of time (minimum period being 4 weeks)
- (d) Significantly damaged, insecure, run down or un-roadworthy (*could include vehicles with flat tyres, wheels removed or broken windows etc.*)
- (e) Burned out
- (f) Lacking one or more of its number plates
- (g) Containing waste and/or appears to be used for storage.
- (h) Deemed a danger to the public (*e.g. due to damaged parts of the vehicle "sticking out" liable to cause danger or injury to members of the public*)

5.7.1 Legislation and formal enforcement if deemed appropriate

Section 2 of the Refuse Disposal (Amenity) Act 1978 makes it an offence to abandon a motor vehicle or any part of a motor vehicle, on a highway or any land in the open air. This includes any trailer intended or adapted for use as an attachment to a motor vehicle.

There is no statutory definition of an abandoned vehicle and factors to be taken into account include but are not limited to all of those listed under 5.2.1.

5.7.2 Breach of legislation

- The Council is under a duty to remove motor vehicles unlawfully abandoned on any land in the open air and can recover its charges from either the owner or the person who abandoned it. Section 3(2) and 3(2)(A) of the Refuse Disposal (Amenity) Act 1978 provides for notice periods before removal which officers will follow.
- A Fixed Penalty Notice (FPN) can be issued which has been set by the Council of £200 to anyone who abandons a vehicle. Offenders can also be prosecuted.

5.8 Nuisance Vehicles

The Community Enforcement Team have legislative powers to investigate any person who advertises two or more vehicles for sale on the highway or any person that is suspected of carrying out works on a motor vehicle on the highway which is not requiring emergency repair works.

5.8.1 Legislation and formal enforcement if deemed appropriate

Section 3 Clean Neighbourhoods and Environment Act 2005 makes it an offence to expose vehicles for sale on a road and a person is guilty of an offence if at any time they leave two or more motor vehicles parked within 500 meters of each other on a road or roads where they are exposed or advertised for sale.

Section 4 Clean Neighbourhoods and Environment Act 2005 makes it an offence for a person to carry out repairs to vehicles on a road unless they have been in an accident within the last 72 hours or have broken down and repairs are necessary.

5.8.2 Breach of legislation is a Criminal Offence

- A Fixed Penalty notice can be issued under section 3 or 4 of Clean Neighbourhoods and Environment Act 2005 which is £200.
- A person found guilty in Court of either section 3 or 4 of Clean Neighbourhoods and Environment Act 2005 is liable on summary conviction to a fine not exceeding level 4 on the standard scale (which currently stands at £2500).

5.9 The Community Enforcement Team have various internal procedures in relation to the above legislative powers which enable them to assess each report on a case by case basis. The above highlights enforcement action which can be taken to address matters listed between 5.2 and 5.8 if the Councils approach of Engage, Educate and Encourage have either been exhausted and/or it is in the public interest to pursue formal enforcement action. Please refer to section 7 within the Council's Corporate Enforcement Policy to see other methods which might be considered.

5.10 In addition to the above main pieces of legislation (5.2 to 5.8), the Council may consider powers under the Anti-Social Behaviour Crime and Policing Act 2014 whereby use of the powers under 5.2 to 5.8 have proven to either not be effective, remained persistent in their nature and/or have hit the relevant thresholds to evidence detrimental impact on the Community. More information in relation to these powers can be found within our Anti-Social Behaviour Enforcement Policy.

5.11 The Community Enforcement Team may also liaise with colleagues in other departments, such as Planning, Licensing, Highways or Environmental Services in relation to dealing with relevant offences as some may require a multi departmental approach.

5.12 Other environmental waste offences, including illegal waste sites, large scale fly tipping, pollution of rivers/water, chemical waste or accumulations of waste causing a significant health risk, will be dealt with by other departments either within the Council (such as Environmental Protection) or external partners such as the Environment Agency or Police.

5.13 It is important to note that if any fly tipping offences are occurring in "real time" these need to be reported to the Police immediately, on 101 or in the event of threat to life, 999. The Community Enforcement Team do not have powers of arrest or powers to

stop/pursue an individual in a vehicle. Police also have powers to address fly tipping under sec 33 of the EPA and will often work with the Community Enforcement Team to investigate such offences once the initial incident has been attended.

6 **Reporting Waste, Abandoned and Nuisance Vehicle Offences**

6.1 The Community Enforcement Team will investigate all offences whereby there are reasonable lines of enquiry to be made. This could include one or more of the below.

- Evidence found within the waste/vehicle
- Witness statements from individuals that have seen the offence taking place/knows who committed the offence
- CCTV footage or pictures of the offence taking place.

6.2 It may not be possible for the Council to investigate all incidents reported, especially those where there are no clear evidential leads, lines of enquiry or witnesses to the offence/evidence that would lead to an investigation.

In order to pursue an alleged offence where an investigation is reliant on contact with a reporting person and/or witness, the officer will make 2 attempts to contact. This will be recorded on the Community Enforcement Teams case management system, with a view to close the case. Where practicable, and where a contact address is supplied, the officer may then write to the person to inform them of this.

6.3 Suspected **waste offences** under sections 5.2 to 5.5 of this policy can be reported to the Council using the online reporting forms (making sure that you make it clear you would like the matter investigated rather than just cleared) located at: https://www.cheshireeast.gov.uk/environment/street_cleansing_and_litter/street_cleansing_and_litter.aspx or by telephoning the street cleansing team on 0330 123 5011. The Council will then triage the report and decide if the Community Enforcement Team should investigate, or whether the report should be passed to our street cleansing team and/or closed.

6.4 Suspected offences **abandoned or nuisance vehicles** under sections 5.6 and 5.7 of this policy can be reported to the Council by contacting the Community Enforcement Team on 0300 123 5021. Incidents concerning abandoned vehicles can be reported to the Council by using our online reporting forms, under the “abandoned vehicles” section.

6.5 **Service Standards** – on receipt of a report to the Community Enforcement Team, the investigating officer assigned will undertake an initial assessment of the case within 10 working days. Where they are not able to, the customer will be contacted, where possible, to keep them up to date and make sure they are aware of an expected date the matter will be investigated further.

6.6 **Anonymous complaints** – It may not be possible to investigate such a complaint due to the limited information provided, and as a result of anonymity, officers are unable to make contact to obtain any additional information that may be necessary in ascertaining reasonable lines of enquiry. Anonymous reports of waste offences will be triaged by the Council’s contact centre, where on triage there is enough detail to allow for an initial investigation, the report will be sent to the Community Enforcement Team.

6.7 The Community Enforcement Team cannot accept anonymous reports of **abandoned vehicles**. These reports will be closed on receipt.

7 Investigations

7.1 Any investigations undertaken by an authorised officer of the Community Enforcement Team will be in line with the Councils Enforcement Policy. This covers the Councils approach to enforcement, under what legislation we investigate matters under and how we gather, store and use evidence.

7.2 It is important that every opportunity is taken to focus time and effort on investigations that will be productive in terms of achieving positive outcomes.

7.3 Before a Community Enforcement Officer is authorised to undertake their duties, they will go through a minimum of a 4-week induction period with the Senior Community Enforcement Officer and remain in company with an experienced Community Enforcement Officer throughout this period. Training regardless of any formal qualification the Council will be able to offer will be provided for all enforcement officers, as required, to meet changes in legislation and enforcement procedures.

7.4 The Community Enforcement Team will conduct investigations in a number of ways, some of which are outlined in the below list which is not exhaustive but contain the main methods relevant to offences in which they are authorised to investigate. Please refer to the Council's Corporate Enforcement Policy and/or Data Protection Policy in relation to how we store and obtain certain pieces of information gathered and who we might share that information with:

- Initial contact with reporting person/s – in some circumstances an initial investigation may be opened and closed by means of contacting the reporting person/s. The contact will allow an officer to ascertain the nature of the alleged offence and whether this is something they will be able to make reasonable lines of enquiry around. Depending on the outcome of this call the officer will then decide as to whether the matter requires further investigation.
- Evidence found within waste or vehicle - This can be either by the officer themselves and removed, placed in a labelled bag and stored securely, or via another person who has found the evidence and handed it over to the officer via means of a statement and exhibit. In some circumstances a photograph of the evidence may be taken by the officer as it may not be practical to remove it from the site.
- Witness statements – An offence may have been witnessed in person by an individual/s or they may have video or photographic evidence of an alleged offence taking place. In these circumstances an authorised officer would have to obtain a witness statement if the information supplied is to be relied upon.
- Requests for information from another person/department/business or partner agency/authority There may be information an officer requires in order to further their investigation, for instance an address, land ownership details, a registered keeper of a vehicle, landlord information etc.
- Door to door enquiries – an officer may try to contact nearby residents or businesses to try to gather further information about an alleged offence. A calling

card will be left where appropriate. If no contact has been made and there are no further lines of enquiry for the officer to consider then the investigation will be closed.

- Interviewing a suspect under caution/obtaining information under caution

It may be appropriate for some offences to give a suspect opportunity to give a clear account under caution of their version of events to assist with an investigation.

- CCTV – The council may use CCTV at their disposal via its CCTV department to place in a hotspot area that has been identified as being subject to relevant offences taking place. This will be in line with legislation outlined in the Councils Corporate Enforcement Policy and service specific CCTV policy.

- Body worn Cameras – It is the intention of the Council to equip the Community Enforcement Team with Body Worn Cameras. Alongside compliance, personal and public protection uses, the body worn video function of these cameras will also be used to obtain evidential footage which may assist an investigation. They will not be used for the purpose of surveillance. Once the Body Worn Cameras are in operation a policy in line with this will be available on the council's website.

8 Enforcement Actions/investigation outcomes

8.1 The full range of investigative outcomes/enforcement actions that the Community Enforcement Team may consider are listed within the Council's Corporate Enforcement Policy. In relation specifically to offences listed under sections 5.2 to 5.7 of this policy the team's main investigation outcomes are recorded as:

- Education/advise given/informal intervention delivered
- Patrol undertaken
- FPN issued (offence type stated)
- Verbal warning
- Formal written warning
- Prosecution file submitted
- Closed at point of contact (mis directed report, or no offences disclosed)
- Unable to proceed
- Vehicle deemed abandoned
- Vehicle deemed not abandoned
- Vehicle removed

8.2 The classification list above is subject to change within the boundaries of the Council's Corporate Enforcement Policy. The Community Enforcement Team will use other methods of enforcement action as and when required under the relevant legislation in which it is authorised to do so. The list under 8.1 is only as a guide in relation to this service specific policy.

8.3 Prosecutions:

The Council will exercise discretion in deciding whether to initiate a prosecution. Other approaches to enforcement may promote compliance with legislation more effectively (as previously detailed within this policy and also the Council's Corporate Enforcement Policy).

However, where the particular circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.

In addition, consideration will be given to best practice guidance from Government Departments and Agencies, other Local Authorities and advice offered by the Council's Legal Department in accordance with the Code of Crown Prosecutors.

Officers will, subject to their statutory duties, act in accordance with the Council's procedures when approaching individual cases of complaints and will initiate the type of enforcement action warranted by the nature and severity of the offence.

Officers will seek to help all members of the public and business community to understand their rights and obligations to comply with relevant legislation.

The Council will take legal proceedings if there is sufficient evidence to do so and where it is in the public interest to do so.

When considering legal proceedings or the issuing of a Fixed Penalty Notice, the immediate consideration is the sufficiency of available, admissible evidence to substantiate the allegation that an offence has been committed.

In determining the sufficiency of evidence, consideration should be given to the following factors:

- Availability of essential evidence
- Credibility of witnesses

Where the case depends in part of admissions or confessions, consideration should be made to their admissibility and whether interviews, statements and other evidence have been obtained in compliance with relevant legislation.

In determining the admissibility of evidence regard should be given to the requirements of the Police and Criminal Act 1984 and the Criminal Procedure and Investigations Act 1996, and associated Codes of Practice.

If the case does not pass the evidential test, they may not go ahead. If the case does meet the evidential test, the Council will decide if formal enforcement action is in the public interest and in line with our Enforcement Policy.

Guidance and advice will be taken from the Council's Legal Department where appropriate.

8.4 Public Interest Criteria

When satisfied that sufficient evidence is available, consideration must be given to whether the public interest test requires a prosecution. Suspected offences should not automatically be the subject of prosecution, but that prosecution should follow whenever it appears that the offence or its circumstances is or are of such a character that a prosecution is required in the public interest.

The factors which can properly lead to a decision not to prosecute will vary from case to case but generally, the more serious the offence, the less likelihood there will be that the public interest will be served otherwise than by prosecution.

More information in relation to Public Interest Criteria can be found in section 3.5 of the Council's Corporate Enforcement Policy.

9 Reporting

- 9.1 In line with the Council's Waste Management and Fly tipping policy the Community Enforcement Team will also provide relevant enforcement actions to our Waste Strategy Team to populate the 'flycapture' element of 'Waste Data Flow' which is a statutory reporting system enabling a national picture to be built up on the extent of fly-tipping and the financial impact this has on local authorities. More information about this can be found in the Council's Waste Management and Fly Tipping policy.
- 9.2 A regular report on the performance of the Community Enforcement Team will be presented to the relevant Service Committee for information.

10 Appeals

- 10.1 In relation to legislation that the Community Enforcement Team deal with that involve criminal matters (for instance the issuing of a Fixed Penalty notice for fly tipping), if the defendant enforcement action has been taken against wishes to appeal as they feel they have not committed the offence this would usually be via making a formal representation in a Magistrates Court. However, the Council will accept initial informal appeals and details of how to make an appeal will be placed on either the Fixed Penalty Notice issued to them or formal correspondence sent to them in line with the enforcement action taken.
- 10.2 Informal appeals against enforcement action under criminal legislation will only be considered in relation to any representation the defendant makes under the following:
- That they believe they are exempt to the enforcement action taken due to exemptions defined under the relevant legislation.
 - That they believe they have been identified falsely
 - That they have information in relation to the offence that may reveal further lines of enquiry causing the matter to be placed on hold pending further investigation.
- 10.3 Appeals in relation to civil legislation (for instance in relation to sec 46 of the EPA 1990 – domestic waste receptacles) have procedures in place via the legislation they fall under that allow for formal appeals to be made to the Council. Details of how and where such appeals can be made will again be contained in any formal correspondence sent to the defendant.
- 10.4 Appeals will be considered via the relevant Senior Officer or Team manager and not the issuing officer. On receipt of an appeal any payment dates or requirements under the enforcement action taken will be placed on hold until the appeal has been considered. The relevant Senior Officer or Team manager on receipt of appeal will inform the defendant as to when they are to expect an outcome. Any new due dates of payments

required, requirements, or further legal action will be outlined on the appeal outcome correspondence.

- 10.5 Appeals will not be considered in person or over the telephone. They must be sent either via email or in writing to the contact information supplied to them on receipt of the Fixed Penalty Notice or formal action letter received.

11 Verbal/Physical Abuse Towards Officers

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

12 Complaints and Compliments about the service

- 12.1 In accordance with the Council's Compliments and Complaints procedure persons wishing to submit a compliment or make a complaint about the Community Enforcement Team should do so either by writing to Compliance & Customer Relations Team, 1st Floor Westfields, C/O Municipal Buildings, Earle Street, CREWE, CW1 2BJ or by e-mail to Letusknow@cheshireeast.gov.uk. More information in relation to complaints and compliments can be found on our website at www.cheshireeast.gov.uk.