

Highways & Transport Committee

Date of Meeting:	16 November 2021
Report Title:	Parking Services Enforcement Policy
Report of:	Andrew Ross – Director of Highways & Infrastructure
Report Reference No:	HT/28/21-22
Ward(s) Affected:	All wards

1. Executive Summary

- 1.1.** The purpose of this report is to seek Committee approval of the Council's updated Parking Services Enforcement Policy. This service-specific policy is prepared in accordance with the over-arching Cheshire East Enforcement Policy, as published on the Council's website (see Background Papers).
- 1.2.** A review of the policy has considered changes in relevant legislation and guidance, with appropriate amendments to the Enforcement Policy used by the Council's Parking Services. Updated statutory guidance was published by the Department for Transport in June 2020.
- 1.3.** Accordingly, the updated policy includes provision that take account of key parking enforcement priorities, how the local authority demonstrates consistency in enforcing parking controls and how we monitor the performance of Civil Enforcement Officers. A full copy of the revised policy is appended to this report (see Appendix 1).
- 1.4.** This policy contributes to the Council's Corporate Plan 2021-25 priority for "*Welcoming, safe and clean neighbourhoods*" which states that the Council will use our full range of education, engagement, and enforcement tools to protect our communities. The proposed service-specific enforcement policy supports this priority by ensuring there is transparency in all aspects of our statutory enforcement of parking provisions. The approaches defined in the policy promote and develop the service through communications and publications targeted at service users, residents, and business.

- 1.5. Enforcement activities enable the Council to uphold parking restrictions and manage parking places that are provided both on-street and in Council car parks. Civil Enforcement activity aims to achieve as close to 100% compliance with local parking restrictions, as part of our overall transport strategy. The parking enforcement policies of the Council help to ensure that the highway network operates effectively, neighbourhood safety and amenity is protected from inconsiderate parking and alternative transport choices are improved for residents and visitors.

2. Recommendations

- 2.1. The Committee approve the updated Parking Services Enforcement Policy, as set out in Appendix 1.

3. Reasons for Recommendations

- 3.1. There is a statutory requirement for the Council to have an appropriate Corporate Enforcement Policy in respect of the regulatory services that it provides.
- 3.2. The overarching corporate policy identifies the Councils' role as a proactive and enforcing Council. Accordingly, there is a need for all Council services engaged in enforcement roles to be clear about their responsibilities, approaches and powers.
- 3.3. The Council's parking service is responsible for the civil enforcement of both on and off-street parking provisions in Cheshire East. Adoption of an up-to-date, service-specific Parking Enforcement Policy is necessary to fulfil this requirement.
- 3.4. The aim of enforcement is to engender compliance with prevailing highway regulations. The ambition is for motorists to be compliant with local parking restrictions. This outcome is supported through the publication and adoption of both clear, legally enforceable parking controls and a local policy to enforce these transparently and consistently.
- 3.5. Adoption of the policy will ensure that the Council has recourse to a clear statement on the rules applying to parking enforcement practices within the borough. Therefore, people who park in Council car parks have clarity on what is necessary to comply with the regulations and conditions of use applying to parking places provided by the Council. In addition, the Council has a clear reference point for enforcement practice when it receives challenges or disputes relating to enforcement actions.

4. Other Options Considered

- 4.1. The Council could continue to operate under the provisions of the 2016 Parking Services Enforcement Policy. However, where changes to guidance and legislation have occurred in the intervening period, these may

not be adequately addressed and could leave the authority open to potential criticism and challenge in relation to its enforcement activity.

5. Background

- 5.1.** Following the introduction of Civil Parking Enforcement (CPE) under provisions in the Traffic Management Act (TMA) 2004, the Council took responsibility for enforcing parking restrictions within the borough. This responsibility covers both on-street parking bays and off-street car parks operated by the Council.
- 5.2.** Civil Parking Enforcement empowers the council to take effective action where illegal, inconsiderate, irresponsible, or dangerous parking impacts on the quality of life for our residents and businesses. Should a motorist fail to comply with parking restrictions that are in place, a contravention occurs which may lead to the issue of a Penalty Charge Notice (PCN).
- 5.3.** Through the duties of our Civil Enforcement officers, the Council is able to combat illegal and inconsiderate parking, through education, encouragement and enforcement, in ways that aid the free flow of traffic.
- 5.4.** As part of the government's commitment to reducing regulatory burdens, the Regulators Code (the Code) was developed and came into effect on 6 April 2014. The Code was enacted under the Legislative and Regulatory Reform Act 2006 and provides clear principles on how local authorities should interact with those that they are regulating in order to encourage open and constructive relationships.
- 5.5.** The Code is underpinned by the principles of good regulation, which states that regulatory activity should be carried out in a way that is transparent, accountable, proportionate, consistent, and targeted only at cases where action is needed. It is a statutory requirement that regulators must have regard to the Code when developing policies and procedures that guide their regulatory activities.
- 5.6.** The key principles of the Code are that regulators should:
 - 5.6.1.** Carry out their activities in a way that supports those they regulate to comply and grow.
 - 5.6.2.** Provide simple and straightforward ways to engage with those they regulate.
 - 5.6.3.** Base their regulatory activities on risk.
 - 5.6.4.** Share information about compliance and risk.
 - 5.6.5.** Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.

- 5.6.6.** And ensure their approach to their regulatory activities is transparent
- 5.7.** The proposed Parking Services Enforcement Policy contains new and updated guidance which shows how we carry out and review parking enforcement. It attempts to strike the balance between national consistency but also allowing parking policies to suit local circumstances, in accordance with recent guidelines. (June 2020 from Department for Transport).
- 5.8.** The corporate enforcement policy was approved in October 2019 and sets the framework for service-specific policies. As a result of a recent Business Improvement Review of Enforcement, Parking Services undertook an extensive review of its existing policies to inform the proposed update to this report and the attached Parking Enforcement policy.
- 5.9.** A copy of the Cheshire East Enforcement Policy and Service Specific Policies is published on the Cheshire East website.
- 5.10.** The Council is required to publish details of performance against the policy. This includes feedback from customer satisfaction surveys, data relating to complaints and appeals against decisions. For Parking Services, this reporting takes the form of the Annual Parking Services Report. Members may wish to note that the most recent report won the national PATROL's Pacer (Promoting Awareness of Civil Enforcement through Reporting) Award for best annual report 2019/20.
- 5.11.** This policy will be reviewed every three years or more frequently should there be a need to respond to significant changes in legislation or other circumstances.

6. Consultation and Engagement

- 6.1.** Officers responsible for the Corporate Enforcement Policy and other service-specific were consulted as 'critical friends' to inform and align the proposed approach.

7. Implications

7.1. Legal

- 7.1.1** The objective of the 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.
- 7.1.2** The policy provides that there will be a consistent approach across the Service that all officers must follow to ensure that non-compliance with legislation is dealt with fairly and proportionately.

7.1.3 The existence of a policy provides the public with clear guidance as to how we approach enforcement matters with regards to parking restrictions.

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 a Parking 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 enforcement policy would incur staff time but no other additional costs. Staffing costs are already covered by base budgets within Parking services.

7.2.2 Penalty Charge Notice levels are set by statute and not by Cheshire East Council. There are currently two levels £70 & £50, both of which are reduced by 50% for payment within 14 days. The levels are dependent upon the type of contravention – higher or lower - which again are set by statute. A full list of the contravention codes can be found on the council's website - https://www.cheshireeast.gov.uk/car_parks_and_parking/parking-regulations-enforcement/parking-contraventions.aspx

7.3. Policy

7.3.1 The Enforcement Policy contributes to the Corporate Plan objectives for Open, Fair & Green governance.

7.3.2 The Service-specific policy relating to car parking is considered to be a supplementary document to the over-arching Corporate Enforcement Policy, making clear any particular enforcement practices and procedures that are defined in relation to the Councils parking service.

7.4. Equality

7.4.1 The Enforcement Policy outlines a transparent and consistent approach to parking enforcement, supporting the Corporate Enforcement Policy. There are no equality implications resulting from its adoption.

7.5. Human Resources

7.5.1 Those services that undertake enforcement activity have an ongoing commitment to ensuring that officers engaged in enforcement are suitably trained and supported. There are therefore no additional implications arising from the adoption of this Policy.

7.6. Risk Management

7.6.1 Failure to adopt the Parking Services Enforcement Policy can increase the risk of legal challenge and adverse scrutiny. Care has been taken to ensure that the Council is not unduly constrained in taking the appropriate enforcement action. If a policy is too restrictive then this could be detrimental to fair and effective enforcement; conversely there is a need to provide detail to enable individuals and businesses to understand what they might expect because of non-compliance.

7.6.2 There is a reputational risk to 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 is open to legal challenge as an abuse of process.

7.7. Rural Communities

7.7.1 There are no specific implications for rural communities.

7.8. Children and Young People/Cared for Children

7.8.1 There are no direct implications for children and young people.

7.9. Public Health

7.9.1 There are no direct implications for public health although enforcement 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 direct implications for climate change although enforcement activity covered by this policy may have a positive impact upon the carbon emissions arising from traffic in our towns by contributing to the

7.10.2 expedient and efficient movement of vehicles on local roads.

Access to Information

Contact Officer:	Richard Hibbert Head of Strategic Transport & Parking richard.hibbert@cheshireeast.gov.uk
Appendices :	Appendix 1 – Parking Services Enforcement Policy 2021
Background Papers:	Corporate Enforcement Policy https://www.cheshireeast.gov.uk/business/enforcement/enforcement-policy.aspx