

Economy and Growth Committee

Date of Meeting:	30 th November 2021
Report Title:	Housing Enforcement Policy - Revised
Report of:	Executive Director - Place
Report Reference No:	EG/15/21-22
Ward(s) Affected:	All Wards

1. Executive Summary

- 1.1.** Cheshire East Council shares the Government's aim to support good landlords and avoid unnecessary regulation for those landlords who provide safe, well maintained homes, by demonstrating through our actions that poor standards of property management and letting out substandard accommodation will not be tolerated.
- 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 "a great place for people to live, work and visit", and the Housing Enforcement Policy links to an action to have "clear and integrated enforcement approach with relevant fit for purpose policies 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 Economy and Growth committee is responsible for determining policies in relation to housing enforcement.
- 1.4.** The Housing Enforcement policy has now been in place for three years and having reviewed it and with the introduction of the new Committee system, this has presented a further opportunity to incorporate new legislation, improve transparency in how enforcement decisions are made, and

establish an approved route for further amendments, should they be required in the future, following additional changes in legislation.

2. Recommendations

2.1. Committee are recommended:

- 2.1.1. To approve the amendments to the revised Housing Enforcement Policy (Appendix 1).
- 2.1.2. To Authorise the Director of Growth and Enterprise, in consultation with the Chair of the Economy and Growth Committee, to make further amendments to the Policy to ensure ongoing compliance with the law and guidance from the Government.

3. Reasons for Recommendations

- 3.1. There is a statutory requirement for Cheshire East Council to have appropriate enforcement policies in respect of the regulatory services that it provides.
- 3.2. Challenging poor quality housing is a priority in the Housing Strategy 2018-2023. Regulation and enforcement are key activities in ensuring that landlords provide good quality, safe accommodation that is well managed.

4. Other Options Considered

- 4.1. There is the option to continue to carry out any enforcement activity in line with the Housing Enforcement Policy approved in 2018. However, this would not afford us the option of enforcing new legislation or be able to provide greater clarity and transparency to the public about how enforcement decisions are reached.

5. Background

- 5.1. The original Cheshire East overarching Enforcement Policy was approved by Cabinet in July 2016 and then subsequently updated and approved on 8th October 2019. It applies to all regulatory services delivered by the Council including Environmental Health, Trading Standards, Planning, Building Control, Licensing, Housing, Antisocial Behaviour, Waste and Littering, Parking, the Blue Badge Scheme and Public Rights of Way.
- 5.2. The Enforcement Policy provides guidance to businesses, residents and officers on the range of options that are available to achieve compliance with legislation enforced by each of the services. The Enforcement Policy comprises of an overarching policy of enforcement which is supplemented by appendices for each of the specific regulatory service areas. This arrangement allows for clearer detail on statutory guidance and code of

practice that may be specific to individual service area and which must be considered as part of their regulatory effort.

5.3. The Housing Enforcement Policy, appended to the main Cheshire East Enforcement Policy, was amended in 2018, however we are now proposing to make the following additional amendments to the policy to strengthen it further and provide further clarity to private sector landlords. These changes include:

- Setting out what good accommodation looks like
- Publishing our service standards to increase accountability
- Providing more clarity about our enforcement considerations
- Providing clear guidance to the public about how civil penalties are calculated for Housing Act 2004 offences, minimum energy efficiency standards and electrical safety standards
- Setting out our considerations for applying for a banning order against landlords.

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 policy being proposed are in the main prescribed by the:

- Housing Act 2004
- Management of Houses in Multiple Occupation (England) Regulations 2006
- Smoke and Carbon Monoxide Alarm (England) Regulations 2015
- Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
- Housing and Planning Act 2016
- Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

7.1.2. Statutory and non-statutory guidance published by the Ministry for Housing, Communities and Local Government sets out guidance for local authorities enforcing the relevant legislation, including the use of civil

penalties, banning orders, rent repayment orders, minimum energy efficiency standards and electrical safety standards in the private rented sector. The policy meets all requirements set out in the relevant guidance, and complies with the relevant legislation.

7.1.3. In setting out the Council's Housing Enforcement Policy, landlords 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. This "stepped" approach to enforcement is compliant with the relevant law and represents best practice.

7.2. Finance

7.2.1. Implementing the Housing Enforcement Policy will incur staff time but no additional costs. Staffing costs are already covered by base budgets within Housing.

7.3. Equality

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

7.4. Human Resources

7.4.1. There are no HR implications.

7.5. Risk Management

7.5.1. 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.

7.5.2. Failure to adopt an 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 regulatory action. If a policy is too restrictive then this could be detrimental to fair and effective regulation; conversely there is a need to provide detail to allow individuals and business to understand what they might expect as a result of non-compliance.

7.6. Rural Communities

7.6.1. This policy will support enforcement of good housing standards across all neighbourhoods in Cheshire East, including rural communities.

7.7. Children and Young People/Cared for Children

7.7.1. The Policy will protect the health and wellbeing of children and young people living in the private rented sector.

7.8. Public Health

7.8.1. The provision of decent accommodation can have significant health benefits for residents. Poor housing can impact on a person's mental and physical health. Licensing of HMOs will ensure that residents have access to good quality housing and that they are protected from significant harm.

7.9. Climate Change

7.9.1. Energy use in homes accounts for 14% of carbon emission in the UK. Enforcement of minimum energy efficiency standards improves the thermal comfort of homes, lowers fuel costs for residents and reduces carbon emissions.

Access to Information	
Contact Officer:	Karen Carsberg – Head of Housing Karen.carsberg@cheshireeast.gov.uk 01270 686654
Appendices:	Appendix 1 – Housing Enforcement Policy Appendix 2 – Equality Impact Assessment
Background Papers:	Cheshire East Enforcement Policy