

Environment and Communities

Date of Meeting:	10 November 2022
Report Title:	Regulatory Services Enforcement Policy Review
Report of:	Jayne Traverse, Executive Director - Place
Report Reference No:	EC/18/22-23
Ward(s) Affected:	All

1. Purpose of Report

- 1.1.** The purpose of this report is to seek approval of the updated Service Specific Enforcement Policy for Regulatory Services and Health. Following this the Policy will be published and implemented by the Team as part of enforcement activity.
- 1.2.** This approach accords with the Council's 2021-2025 Corporate Plan contributing to our strategic aim to *provide strong community leadership and work transparently with our residents, businesses, and partners to deliver our ambition in Cheshire East*. In addition, it supports our objective to *ensure that there is transparency in all aspects of council decision making*.

2. Executive Summary

- 2.1** This report outlines the role of the Service Specific Enforcement Policy for Regulatory Services and Health and its link to the Cheshire East Corporate Enforcement Policy. It seeks approval for an updated version of the Policy.
- 2.2** The report advises Members that the 2019 Policy included a commitment for review within a three-year period of its approval and how this review has taken place within the discrete functional areas of Regulatory Services and Health.
- 2.3** The report confirms that there have been minimal changes to the Policy as part of this review and presents the proposed 2022 Policy as Appendix 1 with a summary of changes at Appendix 2.

3. Recommendations

- 3.1. That the Environment and Communities Committee approves the Service Specific Enforcement Policy for Regulatory Services and Health contained as Appendix 1 to this report.

4. Reasons for Recommendations

- 4.1. The recommendation to approve the revised Service Specific Policy fulfils the action within the Corporate Plan 2021-2025 for a clear and integrated enforcement approach with relevant fit for purpose policies for each enforcement services.
- 4.2. The recommendation also demonstrates our commitment to ensure that the Policy is reflective of our current enforcement priorities and our approach to enforcement activities.

5. Other Options Considered

- 5.1. No other options have been considered. The 2019 Service Specific Enforcement Policy for Regulatory Services and Health committed to a Policy review within a three-year period. The 2022 update has included a review across all five discrete functional areas of the service and meets the needs of the review and update requirement.

Option	Impact	Risk
Do nothing – continue to operate to the 2019 Service Specific Policy	The Council would not fulfil its own requirement to review the Service Specific Policy within a 3-year period.	That the Council could leave itself open to challenge on the basis that the Policy is outdated and has not been subject to regular review.

6. Background

- 6.1. Regulatory Services and Health has a Service Specific Enforcement Policy that was approved in November 2019. At that time, and with the existence of the Cabinet structure of governance the Policy was approved by the Portfolio Holder for Communities with responsibility for the Regulatory Services and Health service. Changes to governance arrangements in 2021 require that this amended Policy be subject to approval by the Environment and Communities Committee.
- 6.2. Service Specific Enforcement Policies exist under the umbrella of the overarching Cheshire East Council Enforcement Policy. Their aim is to provide further clarity for those individuals or businesses subject to

enforcement action by a specific service including the scope of enforcement sanctions available.

- 6.3.** The 2019 Service Specific Enforcement Policy for Regulatory Services and Health committed to a review of the Policy on a three-year basis, a process, which is now due.
- 6.4.** Regulatory Services and Health is made up of five discrete functional areas and as part of this review each area has been involved in the review process to ensure any necessary updates or amendments were identified.
- 6.5.** Unlike the review that took place in 2019 which incorporated the transfer of new functions to Regulatory Services and Health, this review has produced very minimal updates. Changes are limited to improvements to wording to increase clarity, references to new methods of contact with the service as a result of website development work and the inclusion of details for the Office of Environmental Protection as a further recourse where an individual has exhausted the Council's complaint process.
- 6.6.** There is no statutory requirement to consult on draft or proposed revisions to enforcement policies. When consultation has been undertaken on similar policies previously, the response rate has been low. By following the 4 Es approach to enforcement, officers will seek to engage, explain and encourage residents and businesses to comply with legislation and regulations, and only enforce when there are persistent breaches or failure to cooperate.
- 6.7.** Appendix 1 provides the proposed updated 2022 Service Specific Policy for Regulatory Services and Health.
- 6.8.** For ease, Appendix 2 provides a table of changes to the original 2019 Policy.

7. Implications

7.1. Legal

- 7.1.1.** The objective of any enforcement policy is to support the underlying mechanism 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 ensures that there will be a consistent approach to enforcement across the Regulatory Services and Health Service. Officers will have regard to the Policy when dealing with issues of legislative non-compliance, ensure that matters are dealt with fairly and proportionately whilst having regard to the resources available and the risks posed by the offence itself.
- 7.1.3.** The existence of a Service Specific Enforcement 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.

7.2. Finance

7.2.1. Implementing this service specific enforcement policy will incur staff costs that are already covered by base budgets within the relevant service areas.

7.2.2. Some enforcement activities incur a charge designed to solely recover the cost of the enforcement action taken and are recoverable from those subject to the enforcement activity. Some charges are set by statute whilst others are determined by the Council and must demonstrate financial transparency in how they are evaluated.

7.2.3. It is not possible to recover all costs associated with enforcement activity and in these circumstances, there will be pressure on existing service budgets if these additional costs cannot be absorbed.

7.3. Policy

8.3.1 The Council's Corporate Plan 2021-2025 sets out our vision for a more open, fairer, greener Cheshire East. The Plan includes the aim of a thriving and sustainable place, with a priority of welcoming, safe and clean neighbourhoods. Under this priority the plan includes an action for a clear and integrated enforcement approach with relevant fit for purpose policies for each enforcement service.

7.4. Equality

7.4.1. The service specific policy aims to outline a transparent and consistent approach to enforcement across Cheshire East. Therefore, there are no equality implications resulting from its adoption and implementation.

7.5. Human Resources

7.5.1. Regulatory Services and Health has an ongoing commitment to ensuring that all officers engaged in enforcement activities are suitably trained and supported. This is dealt with through the formal appraisal process and the identification of specific training with the service training plan.

7.6. Risk Management

7.6.1. There is a reputational risk to the Council by not having a transparent and robust approach to enforcement.

7.6.2. Once adopted, failure to comply with one's own Enforcement Policy would be open to legal challenge as an abuse of process.

7.7. Rural Communities

7.7.1. Regulatory Services incorporates the Animal Health and Welfare Team who work closely with our rural communities and who may therefore be subject to enforcement activities in response to proactive and reactive work.

7.7.2. Any enforcement activity will be based on Policy considerations and where appropriate will include collaborative working with other relevant agencies who work with this sector.

7.8. Children and Young People/Cared for Children

7.8.1. There are no implications for Children and Young People.

7.9. Public Health

7.9.1. 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.

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 implications for climate change although regulatory activity covered by this policy may have a positive impact upon the carbon emissions.

Access to Information	
Contact Officer:	Tracey Bettaney, Head of Regulatory Services Tracey.bettaney@cheshireeast.gov.uk 07814 369267
Appendices:	Appendix 1 Service Specific Enforcement Policy 2022 Appendix 2 Summary of changes
Background Papers:	regulatory-services-and-health-november-2019.pdf (cheshireeast.gov.uk)