



Service Specific Enforcement Policy

Partnerships and Communities

To be read in conjunction with the Cheshire East Council
Enforcement Policy

July 2016

CHESHIRE EAST BOROUGH COUNCIL

PARTNERSHIPS AND COMMUNITIES ENFORCEMENT POLICY

1. Aims of this Policy

- 1.1 To advise and inform businesses and individuals with regards to the legislative powers available to the Partnerships and Communities (P&C) team and how and when those controls will be executed.
- 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.

2. Functions of Partnerships and Communities

2.1 The Partnerships and Communities team sits within the broader Communities Service and consists of the following teams:

- Community Safety Delivery Team incorporating;
Community Protection (Trading Standards Investigations)
Anti Social Behaviour and Community Enforcement
CCTV
- Community Impact
- Community Resilience
- Community Strategy
- Community Development

3. Working With Other Agencies

- 3.1 P&C undertakes a wide range of functions across the whole of Cheshire East and works with a number of internal and external partners to provide a holistic approach to enforcement. Where issues are identified that extend beyond the remit of one agency and into the role of another, then joint operations will be considered to maximise resources and improve any enforcement outcomes. We work with our partner agencies using a wide range of measures to enforce against issues across the community.
- 3.2 We will refer matters to other authorities where we believe they are the most appropriate to deal with the matter in hand. Similarly we will also accept referrals from others where we believe we are the most appropriate enforcement body to deal with the issue effectively.

4. Our Approach to Enforcement

- 4.1 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.
- 4.2 Enforcement action should not normally be considered as an initial remedy for any contraventions and where possible officers should consider informal action in the first instance. However, there are occasions, depending of the severity of the

contravention, where formal action will be considered as the initial and most appropriate course of action.

5. General Service Standards

- 5.1 P&C aims to respond to all requests for service, complaints or information received within service standards and to conduct any investigation efficiently and as quickly as possible. Despite this, due to the complexity of some of the work, it is possible for investigations to take a considerable amount of time to enable a thorough investigation and in these circumstances officers will, where possible, keep all parties updated.

6. Legislative Framework

- 6.1 P&C has a wide range of powers contained within a variety of legislation and regulations which is supported by statutory and non statutory guidance in relation to interpretation and implementation.
- 6.2 In some instances, specific powers contained within legislation are restricted to those officers who are deemed to have the relevant qualification, skills and experience to enforce them. These delegations are formally recorded within individual authorisations granted to and held by each officer.

7. How to Make a Report to Partnerships and Communities

- 7.1 Before making direct contact with Partnerships and Communities, individuals and businesses may choose to visit the Cheshire East webpages for initial information and advice www.cheshireeast.gov.uk

7.2 For Community Protection (Trading Standards Investigations)

Cheshire East Council has a formal arrangement with the Citizens Advice Consumer Service (CACS) who provide all initial advice to consumers in relation to Trading Standards matters. CACS can be contacted on 03454 04 05 06 or by visiting www.citizensadvice.org.uk/consumer/get-more-help

7.3 For the Anti Social Behaviour Team

If you have been the victim of an incident of Anti-Social Behaviour/it is occurring now/damage has been caused, threats verbal or written have been made/physical violence used or threatened/you are feeling intimidated etc. please contact Cheshire constabulary on 101 (if you require urgent/immediate assistance please call 999).

If you would like to report on-going incidents, lower level ASB or would like to discuss with our team how you could get assistance tackling ASB that you feel you are suffering from, please contact Cheshire East Councils ASB Team on:

Telephone: 0300 123 5030

Email: safer@cheshireeast.gov.uk

Community Trigger

The Community Trigger gives, those affected by anti-social behaviour, the right to request an anti-social Behaviour case review of the response by agencies to their reports of anti-social behaviour. The Community Trigger should only be used if you think your concerns have not been dealt with, or acted upon, by agencies.

Concerns about individual officers, or services, should continue to be directed to the relevant organisation's complaints procedure and/or the Ombudsman or the Independent Police Complaints Commission.

For further information, please use the link below.

http://www.cheshireeast.gov.uk/environment/community_safety/anti-social_behaviour

You can also report any ASB you are suffering from via a third party such as a Councillor.

- 7.4 In all cases, written communications can be sent to Partnerships and Communities, Municipal Buildings, Earle Street, Crewe CW1 2BJ.

7.5 **Anonymous Complaints**

There are circumstances where customer details are required to enable a full investigation to take place. Whilst officers must ensure customers details are kept confidential, there are occasions when people wish to remain anonymous. In these situations, officers will use professional judgement to determine if the service request or information can be actioned in the absence of customer details.

8. Power of Entry

- 8.1 Where legislation grants officers the power to enter premises to carry out statutory functions, this will be undertaken in accordance with the requirements of relevant legislation.
- 8.2 Where a warrant is required from the Magistrates' Court, an application will be made in accordance with the Council's procedures and the requirements set out by the Magistrates' Court.

9. Enforcement Proceedings

Type of Enforcement Action	Description
Promotion	This typically involves a push of information to residents and businesses about specific matters of legislation. This can be achieved by a variety of methods including direct correspondence, press releases, face to face contact and website information.
Compliance Advice, Guidance and Support	P&C uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of an informal warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible and avoiding the need for any

	formal enforcement action. Where a similar breach is identified in the future, this advice will be persuasive in considering the most appropriate enforcement action to take on that occasion.
Mediation	In many cases mediation can be an effective tool to resolve an issue by bringing all parties together for facilitated discussion. This can be very effective in situations where it can be difficult to establish who the victim is. There must be a willing to partake by all parties.
Informal Warnings	Informal warnings are used for low-level breaches of legislation and where there is a low risk of harm being caused to health or the environment. They can be either oral or written, but where an oral warning is given, it will be confirmed in writing either with an inspection record left at the time of the visit or by a subsequent letter. When a warning is issued by P&C, it may be followed up by a further conversation, visit or inspection to ensure the problem has been rectified.
Written Undertakings (Voluntary and Formal)	Where an individual or organisation persistently fails to comply with the law, P&C may seek a written undertaking from that person that they will cease the action causing the breach. Failure by an individual or business to agree to a written undertaking, or in cases where an agreement is breached, can lead to further formal action being taken as appropriate.
Fixed Penalty Notice	Certain lower level offences are subject to a Fixed Penalty Notice which allows the offender to discharge their liability and avoid a criminal record. P&C will comply with any current relevant guidance on the use of Fixed Penalty Notices. Where an adult recipient does not pay the penalty offered or is a repeat offender there will be a presumption that prosecution will follow in relation to the actual offence committed.
Formal Notices	Where there is a breach of relevant legislation a formal notice may be issued to all parties concerned and can include the owner(s) of the premises. A formal notice will require a person, business or organisation to comply with specific legal requirements within a specified time period. A notice shall explain the legislation that has been breached, how to comply with the notice and the consequences of not complying with a notice. Notices will be accompanied by any relevant appeal information. In general, failure to comply with a notice makes the person or business named in the notice liable for prosecution action.
Suspension/Revocation of Permits or Licences	Where a permit or licence has been issued and where continued or serious breaches occur, the Council will consider suspending/revoking the licence.
Seizure and Suspension Proceedings	Certain legislation enables authorised officers to seize or suspend goods, for example, unsafe products or any goods or documents that may be required as evidence for possible future court proceedings.
Forfeiture Proceedings	This procedure may be used in conjunction with seizure

	and/or prosecution where there is a need to dispose of goods in order to prevent them from re-entering the market place or being used to cause a further problem. P&C may seek an order of the court for forfeiture of goods it has seized either as part of criminal investigations or during the exercise of its enforcement functions.
Closure of Premises	Where serious concerns for the health or safety of the public the Council may apply to the Courts to close a premises.
Caution	<p>Where appropriate, consideration will be given to offering a caution to a person, where they admit culpability for the offence, rather than taking a prosecution through the Courts. Therefore a Caution will be considered in those instances where the Council is satisfied that there is sufficient evidence to offer a realistic prospect of conviction.</p> <p>A Caution is not a criminal conviction but it will form part of an offenders criminal proceedings and may be referred to in any subsequent proceedings.</p>
Prosecution	<p>The Council will consider commencing prosecution proceedings in the Courts against any person(s) who fails to comply with the requirements of a formal Notice or in those cases where the legislation allows for this without the service of an initial formal Notice.</p> <p>Before commencing legal proceedings, the Council will ensure it is satisfied there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. The Council will use discretion in deciding to initiate a prosecution and may do so without prior warning taking place.</p>
Injunction/Enforcement Order	<p>Where a formal Notice has not been complied with and a prosecution is not considered expedient or previous prosecution(s) have failed to secure compliance, the Council will consider applying to the Court for an Injunction. Such action will only be considered if the breach is likely to continue.</p> <p>In certain circumstances P&C may consider it necessary or expedient to seek a direction from the court (in the form of an order or injunction) to control behaviour or activity.</p>
Proceeds of Crime	There are some cases where an application under the Proceeds of Crime Act is considered appropriate. This seeks to confiscate assets from an offender in order to recover the financial benefit they have gained during the course of their criminal activities. Where such an approach is considered appropriate an Accredited Financial Investigator will commence a parallel financial investigation. Any subsequent confiscation must be made after conviction but prior to any sentencing.
Acceptable Behaviour Contracts	Acceptable Behaviour Contracts (ABC's) can be an effective way of dealing with individuals, especially where there are a number of problem behaviours. They can also be effective as an early intervention option. ABCs are a written agreement between a perpetrator of anti-social behaviour and the agency or agencies.
Criminal Behaviour Orders	The Criminal Behaviour Order (CBO) is available on conviction for any criminal offence in any criminal court. The order is aimed at tackling the most serious and persistent offenders where their behaviour has brought

	them before a criminal court. The CBO can also address the underlying causes of the behaviour through new, positive requirements.
Community Protection Notices	The Community Protection Notice (CPN) is intended to deal with particular ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible (aged 16 or over).
Public Space Protection Orders	Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces in a safe environment. Councils only issue a PSPO after consultation with the Police, Police and Crime Commissioner and other relevant bodies.
Closure Powers (Notice/Order)	Closure powers can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder.
Possession Order	P&C uses possession orders obtained from court to remove unauthorised persons from land and regain possession of such.
Direction/order to leave	P&C can use powers to direct unauthorised encampments to leave land not owned by Gypsies and Travellers. If this is not complied with an order can be obtained from the court to allow the removal of unauthorised persons.

This is not an exhaustive list.

10. Naming Offenders

- 10.1 The names and addresses of individuals or businesses who act in ways that represent significant harm, risk, nuisance or disorder, particularly to the young and vulnerable or against the interest of legitimate businesses may be published. This action may be taken in circumstances where:

- Evidence of unfair, dishonest or illegal trading is conclusive;
- It is in the public interest to do so;
- There is no risk of prejudicing legal proceedings or other formal enforcement action;
- To do so does not breach Human Rights or Data Protection law;
- After every prosecution.

If the disposal of a matter is concluded by way of a Fixed Penalty Notice, the offender discharges their liability and the naming of the offender is no longer an option.

11. Appeals

- 11.1 There is a statutory right of appeal against the Council's decision to issue a formal Notice. The period for submission of the appeal is set by legislation and all notices will contain notes relating to the appeal provisions.
- 11.2 Unless otherwise stated in the formal Notice, where an appeal is lodged with the Courts, the requirements of the Notice will be held in abeyance until the appeal has been determined.

- 11.3 In addition, some decisions taken by the council can be challenged through a formal appeals process. Where this is available information will be supplied with the decision.

12. Verbal/Physical Abuse Towards Officers

- 12.1 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 assault towards 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.
- 12.2 Officers are entitled, if subjected to verbal abuse either in person or on the telephone, to terminate the meeting or telephone call.

13. Complaints and Compliments about the service

- 13.1 In accordance with the Council's Compliments and Complaints procedure, persons wishing to make a complaint or compliment about the Regulatory Services and Health service should do so in writing to:

Cheshire East Borough Council, Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ.

- 13.2 Alternatively you can telephone 0300 123 5500 or complete the "Contact Form" at www.cheshireeast.gov.uk
- 13.3 If the complainant has exhausted the Council's corporate complaint process without satisfaction, they can complain to the Local Government Ombudsman. Advice about the types of complaint the Local Government Ombudsman can investigate, as well as application forms for such complaints can be found at the following web site, www.lgo.org.uk. Application forms for such complaints are also available on request at Cheshire East Borough Council offices.