



Cheshire West & Chester Council

# Enforcement Policy

Playing our part in building greener,  
fairer and stronger communities

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Cheshire West  
and Chester

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This policy was approved by Cheshire West and Chester Cabinet on the 18 March 2020, minute 100 and applies to all Council services that have a responsibility for enforcing legislation, including services commissioned or contracted on behalf of the Council or hosted by the Council.

## **1. Introduction**

- 1.1 Cheshire West and Chester Borough Council's Enforcement Policy provides an overarching framework. All staff employed and contracted by the Council are expected to follow this policy.

Whilst this policy seeks to explain key themes and general principles, members of the public and businesses are advised that detailed service-specific enforcement arrangements exist including those in the schedule to this policy.

- 1.2 The Council is committed to maintaining and developing good enforcement policies and procedures and carrying out enforcement functions in an equitable, practical and consistent manner, which helps to promote a thriving economy.
- 1.3 The purpose of this policy is to secure an efficient and effective approach to all council regulatory inspection and enforcement functions and improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations, and Cheshire West and Chester Borough Council.

This is in accordance with the Regulator's Code, published by the Better Regulation Delivery Office (BRDO).

- 1.4 In certain instances, the Council may conclude that a specific provision of the Code is either not applicable or is outweighed by another consideration. The Council will ensure that any decision to depart from the Code will be properly reasoned, documented and based on material evidence.
- 1.5 This policy explains the approach adopted when carrying out the Council's duty to enforce a wide range of legislation and is written in general terms to accommodate this.
- 1.6 The Council will endeavour to serve Cheshire West and Chester residents, businesses and consumers by working with the business community to ensure healthy, fair and safe trading, and a thriving economy. The Council will take particular care to help small compliance focused businesses, individuals, voluntary and community organisations to meet their legal obligations at minimal or proportionate cost.
- 1.7 The Council recognise that the public have a responsibility as guardians of their own community and locally decided remedies are encouraged to build stronger communities. This extends to providing authority for enforcement, on request and subject to controls, to town and parish councils and other agencies, where appropriate.

- 1.8 When the Council takes enforcement action, it will take account of national priorities alongside local priorities that exist at the time of any intervention, investigation or offence.
- 1.9 Enforcement interventions are likely to be targeted in areas where Council, neighbourhood or area priorities are being compromised.

## **2. Scope**

- 2.1 This policy relates to all Council services which operate a regulatory function within or on behalf of the Council.

Examples of service areas which enforce legislation and have a regulatory function include:

- Environmental Health (food safety, health and safety, environmental protection, public health and nuisance)
- Trading Standards (doorstep crime, fraud, money laundering, counterfeiting, under age sales, weights and measures, food labelling)
- Planning and Building Control
- Private Sector Housing
- Licensing (liquor, hackney carriage and private hire, gambling, street trading, zoos, riding schools and caravan site licensing)
- Benefit and Blue Badge fraud
- Waste management and street scene
- Anti-social behaviour
- Parking Services
- Highways
- Animal Health

Please note that this list is not exhaustive and refers to the 'traditional' name of the service area / function for simplicity.

- 2.2 The Council is also the host and prosecuting authority for investigations carried out by the National Trading Standards Regional Investigations Team. This team covers the Trading Standards North West geographical region and is financed by National Trading Standards. A schedule, applicable to trading standards functions is included in this policy.
- 2.3 This policy provides an overarching framework for Council employees, contractors, and hosted services to operate within but is also designed to provide those people who may be affected by regulatory decisions (members of the public, commercial businesses or voluntary organisations) with an overview of the Council's approach and general operating principles.
- 2.4 Local task specific enforcement procedures, for example for planning, trading standards and parking enforcement exist as part of this policy to provide further

detail to the public. These can be accessed on the Council's website or obtained in hard copy format by contacting the relevant service area.

### **3. Standards**

- 3.1 All officers engaged in enforcement functions are appropriately trained and authorised to ensure the highest standards of service delivery.
- 3.2 The Council expects residents and businesses to act on its officers' advice when given. If a resident or business operator chooses not to act on this advice, an enforcement intervention should be expected.
- 3.3 Enforcement action relies upon sufficient evidence to prove or support action being taken. The Council cannot act formally in any case where there is insufficient evidence. In such cases, details will be used for intelligence purposes only.

<p>Where a resident complains about a neighbour but there is no independent supporting evidence to prove any noise nuisance, the Council will not take enforcement action, but will recommend that the resident takes their own private action or engages in mediation.</p>
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- 3.4 In cases where there is an imminent risk to health or the environment, enforcement action may be taken before the right of challenge can be heard.
- 3.5 Section 19 of this policy provides details on how to appeal or challenge an enforcement decision and Section 28 of this policy provides details of the Council's complaints procedure.

### **4. Openness**

- 4.1 The Council will provide information and advice in plain language and will seek to explain clearly how it undertakes its work. The Council will discuss general issues, individual compliance failures or problems with anyone experiencing difficulties on request.
- 4.2 A business or individual, will be notified of intended enforcement action as soon as is feasible, unless this could hamper an investigation or pose a safety risk to those concerned, the environment or the general public.

## **5. Helpfulness**

- 5.1 The Council believes prevention is better than cure and therefore encourages businesses and others to seek advice to assist with compliance. The Council provides a range of chargeable complementary services including Primary Authority partnerships to help with this.
- 5.2 In correspondence, the Council will identify named contacts for service related queries or complaints. Written correspondence will contain a unique reference number which can be quoted when contacting the Council.
- 5.3 The Council makes businesses and customers aware of the enforcement policy and changes to the enforcement policy during site visits, through correspondence and consultation processes, and will provide a printed copy of this policy on request.

## **6. Proportionality**

- 6.1 The Council will endeavour to ensure that any action it requires an individual or business to take, is proportionate to and balanced against the risks. As far as the law allows, the Council will take account of the individual circumstances of each case when considering action. This includes the seriousness of the offence, past history, confidence in management, the consequences of non-compliance and the likely effectiveness of the various enforcement options.

## **7. Consistency**

- 7.1 The Council will carry out its duties in a fair, equitable and consistent manner. Whilst officers are expected to exercise judgement in individual cases, the Council has arrangements in place to promote consistency, including effective liaison arrangements with other authorities and enforcement agencies which may have a shared enforcement role.

All investigations are undertaken in accordance with legal requirements and relevant government guidance.

The Council maintains management systems to monitor the quality and nature of enforcement activity undertaken so as to ensure, as far as is practicable, uniformity, consistency in approach and a quality service in general.

- 7.2 The Council ensures that where supplementary decision-making policies and tools exist, for example, the Health and Safety Executive's (HSE) Enforcement Policy and Enforcement Management Model (EMM), they are used;
  - to provide a framework for making consistent enforcement decisions
  - to monitor the fairness and consistency of inspectors' enforcement decisions in line with policy

- to assist offenders in their understanding of the principles which inspectors follow when deciding on a particular course of action

The Enforcement Management Model (EMM) is a logical system that helps officers to make health and safety enforcement decisions. The principles of EMM are applied in all health and safety regulatory actions and formally recorded where there are significant breaches of health and safety.

## 8. Levels of enforcement action

- 8.1 The Council takes an incremental approach to non-compliances which may amount to contraventions of legislation. Before formal enforcement action is taken, the Council will provide an opportunity to the individual to discuss the circumstances of the case, and take these into account when deciding on the most suitable approach. However, this will not apply when immediate action is required to prevent or respond to a serious breach, or where to do so is likely to defeat the purpose of the proposed enforcement action. When an officer is conducting an investigation into possible criminal offences, any discussion of the case may need to be by way of formal interview, in accordance with the Police and Criminal Evidence Act 1984.

Legislative compliance will be secured by one or a combination of the following methods:

**Promotion:** to raise awareness about legal standards and promote good practice. This is typically achieved by the issuing of press releases, website information, distributing leaflets and other forms of guidance available to the public and businesses, by face-to-face contact and schemes to enhance compliance and self-regulation. Advice will normally be given through access to written information although this can be varied if it is more easily understood another way.

**Informal warnings:** these will be used to reinforce promotional activities where, whilst the law may have been broken or standards not met, it was not thought appropriate to take more formal action. An informal warning can be oral or written and will be a matter of record. If it is believed by the recipient that such a warning is inappropriate or unjustified then they may request for the decision to be reviewed by a senior officer.

Isolated minor infringements are unlikely to lead to formal action. However, if the incident is repeated, or if previous advice has been ignored, formal action may follow.

**Formal enforcement:** this includes but is not limited to the use of statutory (legal) notices, written undertakings and civil enforcement orders, revocation of a licence or registration, cautions, fixed penalty notices, penalty charge notices,

administration penalties, powers of seizure, the use of injunctions and prosecution.

Enforcement action is taken following procedures laid down in legislation, codes of practice and professional guidance notes. Where members of the public need protecting from behaviour that is likely to cause harassment, alarm or distress, the Council may seek to use a range of anti-social behaviour enforcement tools, independent action, or action in consultation with the police and or the Crown Prosecution Service following conviction.

In each case, which has the potential to result in prosecution, the investigating officer will compile a report objectively setting out the facts of the matter. Consideration will be given to factors which will be ultimately relevant when considering whether to prosecute, such as, whether it is expedient for the promotion or protection of the interests of the inhabitants of the particular area. The report will be used when considering whether to prosecute or to use an alternative formal route. Authority to take legal action is reserved to the Director of Governance who will consider the report compiled.

- 8.2 There may be cases where the local authority cannot act due to the absence of independent evidence.

## **9. Statutory (legal) notices**

- 9.1 Many Acts of Parliament enforced by the Council allow for, or require the service of statutory notices, which require a person, business or organisation to comply with specific legal requirements within a specified time period. Where a formal notice is served, the method for appealing against the notice will be provided in writing at the same time.

The notice will explain what legislation has been breached, how to comply with the notice and the consequences of not complying with a notice.

- 9.2 In general, failure of a person to comply with a properly written and served statutory notice makes the person or business named in the notice (the recipient of the notice) liable to prosecution. In some cases, the Council is able to, and will carry out works to comply with the notice and recover the cost to the Council from the recipient(s) of the notice.
- 9.3 In some circumstances both prosecution and carrying out works in default to comply with the notice may be appropriate.

## **10. Written undertakings and enforcement orders**

- 10.1 Where an individual or organisation persistently fails to comply with the law, the Council may seek a written undertaking from that person that they will cease the action. In such circumstances, and as a proportionate measure, the

Council may decide that no further formal action will be taken unless the agreement is breached.

A person who has persistently caused noise nuisance could have a written undertaking incorporated into a caution (see Section 17 on Simple Cautions) to agree to stop the noise nuisance. Similarly, cases of anti-social behaviour will seek a written undertaking to ensure the offender ceases their unruly behaviour and understands what is expected of them.

10.2 In cases where an individual or organisation has breached an undertaking or has refused to provide a written undertaking to cease an action, or committed a relevant offence, an application to a court or tribunal may be made for an enforcement, repayment or banning order, or for other formal action in accordance with the relevant legal provisions.

## **11. Injunctions and other civil actions**

11.1 In certain circumstances the Council may consider it necessary or expedient to seek an injunction to restrain or compel behaviour or activity. Injunctions are orders of the court, breach of which are punishable as a contempt of court by imprisonment or a fine.

11.2 The Council can also apply for Criminal Behaviour Orders.

11.3 As an alternative to an injunction order the Council may accept an undertaking.

## **12. Fixed Penalty Notices**

12.1 A Fixed Penalty Notice may be used as a means of dealing with an offence instead of prosecution. Certain 'low level' offences such as littering, dog fouling and smoking in prohibited places are subject to Fixed Penalty Notices and they enable the offender to avoid a criminal record. Fixed Penalty Notices can also be issued to companies where they fail to comply with permit or other statutory requirements.

12.2 The Council will comply with any relevant guidance on the use of Fixed Penalty Notices. This includes:

- a) There must be sufficient evidence for a realistic prospect of conviction;
- b) The offence is not too serious and is of a nature suitable for being dealt with by a Fixed Penalty Notice;

12.3 The Council follows specific guidance on issuing Fixed Penalty Notices to juveniles. In particular, a Fixed Penalty Notice issued to a juvenile aged 10-15 years must be issued in front of his or her parent or legal guardian. The

procedure for issuing Fixed Penalty Notices to young people aged 16 and 17 is the same as for adults.

- 12.4 Where there is doubt as to whether an offender is aged 16 or 17, the procedure for issuing Juvenile Fixed Penalty Notices to 10 to 15 year olds will be followed.
- 12.5 A Fixed Penalty Notice will not be issued to a juvenile between 10 and 17 years of age for a first offence.
- 12.6 A Fixed Penalty Notice may only be issued to a juvenile for a second (or subsequent) offence and then only if it is considered an appropriate course of action after the case has been referred to the Youth Offending Team and considered for an alternative appropriate intervention.
- 12.7 Where an adult recipient (i.e. a person 18 years of age or above) 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.

### **13. Penalty Charge Notices**

- 13.1 Penalty Charge Notices are issued in relation to breaches of parking restrictions.
- 13.2 The method and circumstances for issuing Penalty Charge Notices is prescribed by specific legislation and is used as a method of enforcement whereby an individual pays an amount of money as a consequence of breaching a parking restriction. Failure to pay a Penalty Charge Notice may ultimately result in the relevant individual being pursued by the Traffic Enforcement Centre, Northampton County Court for non-payment of the debt.
- 13.3 A Penalty Charge Notice does not result in the creation of a criminal record and it is common practice for a Penalty Charge Notice to be issued without first issuing a warning.

### **14. Revocation, suspension and withdrawal of licences and permits**

- 14.1 Where the council has issued a permit, approval, licence or other form of permission, removal of that permission, in line with the relevant guidance or legislation will be considered as an enforcement remedy.

## **15. Forfeiture**

- 15.1 In certain cases the Council may seek an order of the court for forfeiture of goods it has seized either as part of a criminal investigation or in the exercise of its enforcement functions.

## **16. Alternative sanctions**

- 16.1 In certain circumstances alternative sanctions may be offered. Alternative sanctions include paying to attend a training or awareness-raising event linked to the offence as an alternative to prosecution or any other enforcement measure.

## **17. Simple cautions**

- 17.1 As an alternative to prosecution, in appropriate circumstances a simple caution may be considered in accordance with the guidelines relevant to the cautioning of adult offenders. The issuing of a caution is subject to the individual's admission of the offence.
- 17.2 A simple caution is not a criminal conviction but will form part of an offender's criminal record and may be referred to in any subsequent proceedings.
- 17.3 For a simple caution to be issued the following are required:
- a) sufficient evidence to provide a realistic prospect of conviction and in the public interest to caution
  - b) a reliable admission by the offender
  - c) the offender must be over 18 years of age
- 17.4 The refusal of an offender to accept a simple caution will not prevent the matter from being prosecuted.

## **18. Prosecutions**

- 18.1 The Council has a power to institute proceedings under section 222 of the Local Government Act 1972 where it considers it expedient for the promotion of the interests of the inhabitants of its area.
- 18.2 Each case is unique and must be considered on its own facts and merits. The Council will use its discretion when deciding whether to initiate a prosecution.
- 18.3 The decision to prosecute taken by the Council's Director of Governance will take account of the criteria set down in the Code for Crown Prosecutors issued by the Director of Public Prosecutions.

- 18.4 Before deciding to prosecute there must be sufficient evidence for a realistic prospect of conviction taking account of any defence that may be available, and it must be in the public interest.
- 18.5 The following public interest criteria will normally be taken into account when deciding on the relevance of legal proceedings, although this list is not exhaustive:
- The prevalence of the type of offence
  - The need for a suitable deterrent
  - The risk of danger or injury to the public
  - The failure to comply with a statutory notice or respond to advice about legal requirements
  - The disregard of legal requirements for financial reward
  - Significant financial loss, potential or actual, to a third party
  - A history of similar offences
  - Persistent breaches of legislation
  - Where fraud, gross negligence or guilty knowledge is a factor
  - Minor breaches of a number of statutes
- 18.6 Where possible an offender will be told as soon as sufficient evidence is obtained that a prosecution may follow.
- 18.7 All prosecutions will be brought without unnecessary delay. The length of any investigation will be proportionate to the complexity and extent of material under examination.
- 18.8 The Council will aim to maximise its effectiveness by working with other authorities and other agencies, sharing intelligence where it is lawful to do so and mounting joint operations where that would bring benefits.  
Outside agencies include:
- Police
  - Environment Agency
  - Health and Safety Executive
  - Food Standards Agency
  - Cheshire Fire and Rescue Service
  - HM Revenue and Customs
  - DEFRA / Animal Health and Veterinary Laboratories Agency
  - Office of Product Safety and Standards
  - Serious Organised Crime Agency
  - Department for Work and Pensions
  - Registered Social Landlords
  - The enforcement arms of trade protection organisations such as the Federation against Copyright Theft
- 18.9 Where there has been a work-related death, or there is a strong likelihood of work-related death, the Council will liaise and work jointly with the Police,

Coroner and the Crown Prosecution Service in accordance with the joint Work Related Death Protocol. <http://www.hse.gov.uk/pubns/wrdp1.pdf>

18.10 After prosecution the Council may consider preventative action to protect the public from further harm. This can include adding a name to a national prohibited persons / rogue landlord data base, or similar, to prevent trading.

## **19. Appeals, challenges and making representation about an enforcement decision**

19.1 Appeals, challenges and making representation about an enforcement decision should not be confused with complaints about an officer or the service.

19.2 Where statutory appeal processes exist, guidance on how to appeal will be provided at the time of enforcement action.

19.3 Where no statutory appeal process exists, for example in the case of a Penalty Charge Notice issued for a parking offence, guidance on how to challenge or make a representation is provided at the time of issue and on the Councils website.

## **20. Proceeds of Crime**

20.1 In appropriate cases, an application will be made under the provisions of the Proceeds of Crime Act 2002 for confiscation of assets to recover the financial benefit an offender has obtained during the course of their criminal conduct.

Advice should be sought from the Accredited Financial Investigator at an early stage of a criminal investigation so that the Financial Investigation can be progressed without delay.

20.2 Notice of the application to proceed to confiscation must be made after a conviction has been secured but prior to sentencing.

## **21. Charges and costs**

21.1 Certain enforcement activities incur a charge. Any charges made are to recover costs, not to make a profit. Some charges are set by statute, others are determined by the Council.

When setting fees and charges the authority must be able to demonstrate they are fair, reasonable, transparent, and consistent.

In certain exceptional cases the Council has discretion to take into account the personal circumstances of the recipient of the charge for enforcement action. Fees and charges are set annually and can be viewed on the Council website

- 21.2 Where possible the fee must be paid before receipt of the service.

For Housing Act notices, a demand for payment will be made when the notice is served. This enables the recipient to appeal against the content of the notice and / or the charge, and minimises the delay in the notice becoming operative.

Once the notice becomes operative, when the appeal period is over, the Council can issue an invoice (if payment has not been received) and register it as a Local Land Charge on the property until the debt is recovered

- 21.3 Where appropriate, the Council will seek to recover from the offender or perpetrator the reasonable cost it incurs in pursuing a particular enforcement route including prosecution, injunctive action or appeal.

## **22. Enforcement in local authority-run establishments**

- 22.1 Where the Council is the Enforcing Authority for its own premises, steps are taken to ensure that enforcement decisions are free from any conflict of interest.
- 22.2 Serious breaches of law are brought to the attention of the relevant Head of Service and Chief Executive without undue delay.

## **23. Gathering evidence**

- 23.1 Regulatory bodies are empowered to gather evidence by various means, this can include overt methods i.e. where the subject is aware or where appropriate, covert methods, where the subject is unaware.
- 23.2 The Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016 provide a framework for public bodies, including local authorities, to use 'covert surveillance' to gather information about individuals without their knowledge for the purposes of undertaking statutory functions in connection with the prevention or detection of crime.
- 23.3 This 'covert surveillance' can include the use of photography or video to record persons suspected of being engaged in criminal activity. The Council may covertly obtain communications data such as telephone subscriber details and service use.
- 23.4 In such cases of directed surveillance or obtaining communication data, appropriate authorisation is sought in accordance with the Regulation of

Investigatory Powers Act 2000 (RIPA) and the Protection of Freedoms Act 2012.

- 23.5 Authorisation may be sought for directed surveillance if the offence in question could result in a sentence of six months or more imprisonment. There are however exemptions to this criteria, for example, if the investigation concerns the sale of alcohol and tobacco to children. Covert surveillance is used in cases where it is important to obtain information to support potential criminal proceedings, and only where that information cannot be obtained by other means.
- 23.6 Council officers carrying out enforcement duties may not always conduct their duties in Council issue uniform.

For example, in areas of concern where high levels of littering and dog fouling have been reported, it may be necessary for plain clothed enforcement officers to undertake patrols. This will only occur when residents in the area have been made aware of in advance by one or more of the following methods; Letter / leaflet; community notice board; local newspaper; on street signage or other locally agreed method.

The types of police powers used by uniformed CSW's include the requiring persons under 18 to surrender alcohol and powers to request names and addresses of persons acting in an anti-social manner together with the associated power to issue a Fixed Penalty Notice for failing to comply.

- 23.7 During an investigation, we may gather one or more of the following:

- Paper records
- Computer records
- Photographs
- CCTV
- Body cameras
- Samples (food, water, environmental, faecal, pests)
- Counterfeit goods
- Witness statements
- Test purchases
- Invoices
- Dangerous equipment
- Noise monitoring equipment / records
- Plans / sketches
- Information available on social networking websites
- Communications data
- Information from other agencies such as the police or Health and Safety Executive

This list is not exhaustive.

- 23.8 Material may be retained so long as is necessary in all the circumstances. The Council considers each case on its own individual facts at each stage of the investigation and prosecution. In certain circumstances, where there is a potential risk to health, the Council may seek to destroy equipment that has been seized. This would include, for example, the destruction of tattooing and body piercing equipment used by an unlawful operator, to prevent the spread of blood borne disease.

Officers ensure that unfit food which has been seized or voluntarily surrendered is destroyed or disfigured to prevent any possibility of it being returned to the food chain.

- 23.9 Failure to assist an investigation and / or obstruct an officer is an offence under many pieces of legislation. The Council expect co-operation and will take action in the event of non co-operation. If an individual fails to give their personal details during an investigation, this may be considered an additional offence.
- 23.10 In gathering evidence, the Council routinely undertake recorded investigative interviews under caution in accordance with the rules set out in the Police and Criminal Evidence Act 1984 and associated Codes of Practice. The aim of the interview is to obtain an honest and accurate account about the matter under investigation and allows the individual or business the opportunity to convey their version of events as part of an investigation.

Attendance in person at an interview under caution is expected on the grounds of gathering best evidence and efficiency of the investigation process. This process assists the individual or business in the 'right to a fair trial' in accordance with the Human Rights Act 1998.

An individual is entitled to be legally represented at the interview.

- 23.11 Information on the conduct of the interview and rights of an individual or business will be explained before the interview in accordance with the Codes of Practice referred to above and the Council's own Quality Procedures.

## **24. Freedom of information requests and sharing information**

- 24.1 The Council routinely respond to requests for information made under the Freedom of Information Act 2000 and Environmental Information Regulations 2004. This can include formal letters and / or enforcement notices sent to businesses.

Where the release of information into the public domain could adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of the Council to conduct an inquiry of a criminal or disciplinary nature, the Council may refuse to disclose information. Full details are available in the Council's Freedom of Information Policy and Freedom of Information Charging Policy.

- 24.2 In certain cases, enforcement services will share information that the Council holds with other agencies for example, the Food Standards Agency, the Health and Safety Executive, HM Revenue and Customs, Police, Fire Authority, the Financial Conduct Authority, the Department for Work and Pensions, Government Services and the Environment Agency. The information shared will be within the constraints of legislation including the Data Protection Act 2018 and the Enterprise Act 2002. More detail is available on the [privacy notices](#) section of the Council's website.
- 24.3 The Council stores all personal data in accordance with the requirements of the General Data Protection Regulations 2018.

## **25. Equality and diversity**

- 25.1 Procedures developed under this policy and the policy itself are subject to an Equality Analysis to ensure that all aspects of Equality and Diversity are considered in its production.
- 25.2 All Equality Analyses are subject to regular review to ensure a continuing commitment to be inclusive, and are available on the Council's Website.
- 25.3 This policy and service standard documents can be provided in other formats such as audio, large print, on CD or can be translated on request.
- 25.4 Officers will visit customers with an access need where this is necessary.
- 25.5 Translation services are available to support investigations and, pictures and taped interviews can be used as an alternative to written exchange where a need is identified.

## **26. Protection of human rights**

- 26.1 This policy and all associated enforcement decisions take into account the provisions of the Human Rights Act 1998. In particular:
- The right to a fair trial (article 6)
  - The right to respect for private and family life, home and correspondence (article 8)

## **27. General principles of officer conduct**

- 27.1 In addition to the principles set out in this policy, officers will be professional and courteous.
- 27.2 Officers will, as the circumstances allow, announce who they are and in what capacity they are acting. However, there may be occasions when officers legitimately delay identifying themselves until a later stage of the investigation.

- 27.3 Officers will carry and show their identity card or authorisation as appropriate.
- 27.4 Officers must be fair, independent and objective and must not let any views about ethnic or national origin, sex, religious beliefs, sexual orientation or political views, influence decisions. They must not be affected by improper or undue pressure from any source. Authorised officers will act in the interests of justice.

## **28. Complaints, compliments and suggestions**

- 28.1 Complaints, compliments or suggestions on any aspect of the services the Council provides, should, in the first instance, be directed to the Service Manager of the relevant service area.
- 28.2 Details of the Council's corporate complaints procedure is available as follows:

On the web at: <https://www.cheshirewestandchester.gov.uk/enquiries@cheshirewestandchester.gov.uk>  
Via email on: [enquiries@cheshirewestandchester.gov.uk](mailto:enquiries@cheshirewestandchester.gov.uk).  
By telephone on: 0300 123 8 123

Or, by writing to:

Customer Relations team,  
Cheshire West and Chester Council,  
4 Civic Way,  
Ellesmere Port,  
CH65 OBE

Or visit a customer service centre and ask to make a comment, compliment or complaint. If the Council's response to a complaint about the service fails to resolve the matter, you may lodge a formal complaint. The issue will then be investigated through the Council's corporate complaint procedure.

- 28.3 Where a complaint is received about the conduct of an officer, an investigation will be conducted in parallel to the enforcement action and will not delay the enforcement process.

## **29. Review of this enforcement policy**

- 29.1 Changes to this policy will be considered annually, and a formal review process will be carried out every five years. Any interim changes will be approved by the Director of Places Operations in consultation with Director of Governance and the appropriate Portfolio Holder.
- 29.2 If you have any queries regarding the content of this policy, please contact 0300 123 7038

## **Enforcement Policy Schedule: Trading Standards**

This schedule sits as part of the Council's Enforcement Policy and contains further detail to set out the functions of both regional and local trading standards teams. This schedule should be read in conjunction with the broader Enforcement Policy.

### Introduction

1. The Council is committed to the aims of the Enforcement Policy and to maintaining a fair and safe trading environment.
2. The Council supports the Local Government Home Authority Principle and the Office for Product Safety and Standards (OPSS) Primary Authority Scheme. The Council places special emphasis on goods and services originating in its area and providing businesses with a source of guidance and advice.
3. The Council will work closely with both regional and national teams where their activities are complementary or have a significant influence in relation to issues in the area of Cheshire West and Chester. It recognises that there will be a number of occasions when business activities conducted in one region will directly affect the inhabitants of another region, such as a business located in one area trading with consumers at a national or international level.
4. The Council will also have regard to national policy and strategic objectives as set out by National Trading Standards Board such as ensuring effective delivery and co-ordination of national and cross boundary enforcement projects in relation to serious consumer protection crime (including eCrime and business to business fraud) and mass marketing scams.

### Applicability of the Policy to the Regional Investigations Team

5. The Council is host and prosecuting authority for investigations carried out by the National Trading Standards Regional Investigations Team. This team covers the Trading Standards North West geographical region and is financed by National Trading Standards.
6. The team targets criminals involved with offences such as doorstep crime, counterfeiting, consumer and business fraud, money laundering and other related crime. They investigate criminal cases that are detrimental to consumers or businesses which occur on a regional, cross boundary or national level.
7. The team is charged with taking on major investigations, and in appropriate cases, bringing them to a just conclusion through the courts using appropriate criminal and civil sanctions.

8. The Council adopts and approves the 2012 protocol as agreed between members of the North West Regional Tasking Group.
9. The purpose of the team is not to provide advice, information or carry out inspections of regulated businesses. These activities are carried out by local authority Trading Standards service.
10. The team's investigations are subject to the same best practice principles found in legislation and codes that are outlined within this Enforcement Policy.

#### Prosecution specific matters

- 11 Investigations and prosecutions brought by the Regional Trading Standards Team will consider both the effect of a prosecution on the inhabitants of the area in which the investigation was commenced, and the effect more widely, given the cross-border and national level of the offences under investigation.
- 12 In accordance with the Home Authority Principle, if a business or individual under investigation is based either in Cheshire West and Chester [or if, having been referred to the Cheshire West and Chester Council as lead authority for the regional investigation team, is based in one of other councils in the region], Cheshire West and Chester will take the lead on the investigation.
- 13 In reaching a decision to prosecute the Council follows the same approach as the Code for Crown Prosecutors, namely the two stage test, evidential and public interest.

#### Information Sharing

- 14 The Council also works closely with regional and national enforcers, such as Regional Investigation Teams, Illegal Moneylending Team, the National Scams Hub and National Trading Standards. This is in accordance with regional and national priorities and objectives to ensure effective and efficient investigation and enforcement action.

This schedule must be read in conjunction with the Council Enforcement policy.