



Please ask for: Matt Berry
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2 August 2023

Dear Councillor,

Cabinet

6:00pm on Thursday 10 August 2023

Meeting to be held in the Esperance Room, Civic Centre, Cannock

You are invited to attend this meeting for consideration of the matters itemised in the following Agenda.

Yours sincerely,

T. Clegg
Chief Executive

To: Councillors:

Johnson, T.B.	Leader of the Council
Newbury, J.A.A.	Deputy Leader of the Council and Regeneration & High Streets Portfolio Leader
Elson, J.S.	Community Wellbeing Portfolio Leader
Muckley, A.M.	Environment and Climate Change Portfolio Leader
Thornley, S.J.	Housing Portfolio Leader
Preece, J.P.T.L.	Parks, Culture, and Heritage Portfolio Leader
Prestwood, J.	Resources and Transformation Portfolio Leader
Fisher, P.A.	<i>Non-voting Observer</i>

Agenda

Part 1

1. Apologies

2. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

To declare any interests in accordance with the Code of Conduct and any possible contraventions under Section 106 of the Local Government Finance Act 1992.

3. Minutes

To approve the Minutes of the previous meeting held on 13 July 2023 (enclosed).

4. Updates from Portfolio Leaders

To receive and consider oral updates (if any), from the Leader of the Council, the Deputy Leader, and Portfolio Leaders.

5. Forward Plan

Forward Plan of Decisions for August to October 2023 (Item 5.1 - 5.3).

6. Approval of Food Law Enforcement Service Plan 2023-25

Report of the Deputy Chief Executive - Place (Item 6.1 - 6.25).

7. Approval of Environmental Health & Public Protection Service Enforcement Policy 2023

Report of the Deputy Chief Executive - Place (Item 7.1 - 7.46).

8. Revenues and Benefits Collection Report - Quarter 1 2023/24

Report of the Deputy Chief Executive - Resources (Item 8.1 - 8.10).

Appendices 1 and 2 to this report (Item 8.6 - 8.10) are confidential due to the inclusion of:

- Information which is likely to reveal the identity of an individual, and
- Information relating to the financial or business affairs of any particular person (including the Council).

Cannock Chase Council
Minutes of the Meeting of the
Cabinet

Held on Thursday 13 July 2023 at 6:00 p.m.
In the Council Chamber, Civic Centre, Cannock

Part 1

Present:

Councillors:

Johnson, T.B.	Leader of the Council
Newbury, J.A.A.	Deputy Leader of the Council and Regeneration and High Streets Portfolio Leader
Elson, J.S.	Community Wellbeing Portfolio Leader
Muckley, A.M.	Environment and Climate Change Portfolio Leader
Thornley, S.J.	Housing Portfolio Leader
Preece, J.P.T.L.	Parks, Culture, and Heritage Portfolio Leader
Prestwood, J.	Resources and Transformation Portfolio Leader
Fisher, P.A.	<i>Non-voting Observer</i>

13. Apologies

None received.

14. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

No other Declarations of Interest were made in addition to those already confirmed by Members in the Register of Members' Interests.

15. Minutes

Resolved:

That the Minutes of the meeting held on 15 June 2023 be approved (subject to two minor typographical corrections).

16. Updates from Portfolio Leaders

(i) Environment and Climate Change

The Portfolio Leader updated in respect of the following:

- **Staffordshire Sustainability Board**

The Portfolio Leader had attended a meeting of the Board, which brings together Elected Members (Sustainability and Climate Change Portfolio Holders) from the

councils in Staffordshire to allow discussion on relevant environmental and sustainability issues.

Of particular interest was feedback from the Chair, Simon Tagg, of Newcastle-Under-Lyme BC whose refuse collection fleet was using Hydrotreated Vegetable Oil (HVO) as a fossil-free alternative to mineral diesel. HVO was estimated to have up to 90% reduction in greenhouse gas emissions compared to regular diesel.

- **PATROL**

The Portfolio Leader will be attending some schools' workshops focussing on the 'Small Change; Big Difference' initiative.

- **Bridges (not Boardwalks)**

The Portfolio Leader had met with the Head of Housing & Corporate Assets to discuss the next stages in progressing this work.

- **Cannock Chase AONB Partnership**

The Portfolio Leader had attended a meeting of the AONB Partnership and was impressed by what had been reported on and the work that the AONB Partnership is involved in.

(ii) Parks, Culture, and Heritage

The Portfolio Leader updated in respect of the following:

- **National Lottery Heritage Fund**

The Portfolio Leader thanked Inspiring Health Lifestyles' staff at the Museum of Cannock Chase who had successfully bid for £87,120 of Connecting Collections grant funding. This would enable the digitisation of the thousands of items in the museum's collections, to allow people to see Cannock Chase's history as a digital online catalogue.

- **Statement on the Future of the Museum of Cannock Chase**

The Portfolio Leader advised that he wished to update Cabinet on the 2,000 plus signatures petition received at the Annual Council Meeting, concerning the potential relocation of the Museum of Cannock Chase, and requesting that it stays in Hednesford. The Portfolio Leader confirmed that, he, along with the Community Wellbeing Portfolio Leader; the Head of Operations; and the Head of Wellbeing, had met with Cllr. Darrell Mawle, lead petitioner to discuss this situation. The strength of feeling was acknowledged and he could confirm that a full options appraisal document was being prepared, with a view to this being completed in the Autumn for subsequent consideration in the following months by Cabinet.

No final decision on the museum's future had been made or would be made until all the evidence was available for consideration. Cabinet would also need to bear in mind the Council's financial situation, which had recently being put under further pressure with the proposed closure of the Amazon Centre. What the Portfolio Leader could guarantee was that the strength of feeling of the community would be reflected in the appraisal.

- **Anti-Social Behaviour in Cannock Park**

The Portfolio Leader advised that there had been recent incidents of motorcyclists accessing the park and causing nuisance. The matter had been the subject of regular discussion between the Community Safety Partnership and the Police.

The Police had explained that the issue was particularly troublesome to tackle for the following reasons:

- Motorbikes, by nature, were very quick and nimble and so officers approaching them were very easy to evade.
- Helmets/balaclavas were being used, which concealed identity.
- Motorbikes could not be pursued by Police, due to risk of RTC/injury/fatality.
- There were numerous entrances/exits from the areas - so to prevent exit from all would require a huge policing resource, whilst blocking entrances for bikes may prevent access to legitimate users inc. pushchairs, wheelchairs etc., unless large investment was made in multi-use inhibitor barriers.

CCTV was, therefore, tasked to follow the perpetrators to areas where face coverings may be removed to allow for identification - thus allowing retrospective, and safe, action to be taken by the Police. There was also consideration for a resourced police operation and use of drone capability, should the issues continue/worsen. An offender was arrested following investigations. Unfortunately, however, there was another reported incident last week.

The police had stressed that any future issues should be reported to 101, to enable an assessment of the severity and regularity of issues which would determine and shape the future response. From a Council perspective, CCTV would continue to monitor all off road/e-bikes for identification purposes, with all necessary information passed to the Police.

There had also been an increased concern regarding drunks in Cannock Park, and several residents had approached the Portfolio Leader about what could be done.

The area was already covered by an Alcohol Restriction Zone PSPO (if ASB was being caused - not just if alcohol being consumed), but it was reliant on the Police having the available resources to attend and enforce once informed of issues. If the PSPO was being breached in the manner stated above, or if any other criminal behaviour was being committed by those in the park, 101 should be contacted and the behaviour reported. The Police had successfully issued three Criminal Behaviour Orders in the Town Centre, banning those causing nuisance from the area - so positive action was taken when it was deemed to be necessary and proportionate, although it could take time to gather the level of evidence required.

The Portfolio Leader had also been speaking with representatives of Friends of Cannock Park, and discussed further options they and other residents could pursue including requesting a Community Forum, and initiating a community trigger.

(iii) Regeneration and High Streets / Deputy Leader

The Deputy Leader updated in respect of the following:

- **Local Government Association (LGA) Conference 2023**

The Deputy Leader advised that he had attended the LGA Conference in Bournemouth at no cost to the Council. It had been a very interesting conference with many useful sessions. He had also met with Simon Tagg, Newcastle-Under-Lyme BC and discussed a number of the innovations they are involved in.

17. Forward Plan

Resolved:

That the Forward Plan of Decisions for the period July to September 2023 (Item 5.1 – 5.2) be noted.

18. Amazon - Rugeley

Consideration was given to the Report of the Head of Economic Development & Planning (Item 6.1 - 6.4).

Resolved:

That:

- (A) The implications of the proposed closure of the Amazon Fulfilment Centre in Rugeley as set out in the report be noted.
- (B) It be noted that a task group comprised of the Council and key partners had been established to manage the immediate implications of the proposed closure, with a specific focus on assisting residents who were affected by the proposals.
- (C) A report be received from the Head of Economic Development & Planning in three months to update on the situation.

Reason for Decisions:

To ensure that Cabinet was aware of the implications of the proposed closure of Amazon in Rugeley and that the Council and its key partners could appropriately respond to this closure and support residents in the community.

The meeting closed at 6:40 p.m.

Leader

Forward Plan of Decisions to be taken by the Cabinet: August to October 2023

For Cannock Chase Council, a key decision is as an Executive decision that is likely to:

- Result in the Council incurring expenditure or making savings at or above a threshold of 0.5% of the gross turnover of the Council.
- Affect communities living or working in two or more Council Wards.

Representations in respect of any of matters detailed below should be sent in writing to the contact officer indicated alongside each item via email to membersservices@cannockchasedc.gov.uk

Copies of non-confidential items will be published on the Council's website 5 clear working days prior to the relevant meeting date.

Item	Contact Officer / Cabinet Member	Date of Cabinet	Key Decision	Confidential Item	Reasons for Confidentiality	Representations Received
August 2023						
Food Law Enforcement Service Plan 2023-25	Deputy Chief Executive - Place / Environment & Climate Change Portfolio Leader	10/08/23	Yes	No		
Environmental Health & Public Protection Service Enforcement Policy 2023	Deputy Chief Executive - Place / Environment & Climate Change Portfolio Leader	10/08/23	Yes	No		
Revenues and Benefits Collection Report - Quarter 1 2023/24	Deputy Chief Executive - Resources / Resources and Transformation Portfolio Leader	10/08/23	No	Yes (Appendices only)	Information likely to reveal the identity of an individual. Information relating to the financial or business affairs of any particular person (including the Council).	
September 2023						
Quarter 1 Performance Report 2023/24	Head of Transformation & Assurance / Resources & Transformation Portfolio Leader	14/09/23	No	No		
Development Management Pre-application Enquiries - Proposed Charging Scheme	Head of Economic Development & Planning / Regeneration and High Streets Portfolio Leader	14/09/23	Yes	No		

Item No. 5.2

Item	Contact Officer / Cabinet Member	Date of Cabinet	Key Decision	Confidential Item	Reasons for Confidentiality	Representations Received
Environmental Sustainability Strategy	Head of Operations / Environment and Climate Change Portfolio Leader	14/09/23	Yes	No		
Kerbside Waste Collection Contract Procurement	Head of Operations / Environment and Climate Change Portfolio Leader	14/09/23	Yes	No		
Introduction of Chargeable Garden Waste	Head of Operations / Environment and Climate Change Portfolio Leader	14/09/23	Yes	No		
LTA Tennis Courts Concessions Scheme	Head of Operations / Parks, Culture, and Heritage Portfolio Leader / Community Wellbeing Portfolio Leader	14/09/23	Yes	No		
Energy Management Strategy	Head of Housing & Corporate Assets / Housing Portfolio Leader	14/09/23	No	No		
Housing Revenue Account - Creation of New Post	Head of Housing & Corporate Assets / Housing Portfolio Leader	14/09/23	No	No		
Former Tenants' Arrears Recommended for Write-off	Head of Housing & Corporate Assets / Housing Portfolio Leader	14/09/23	No	Yes	Information likely to reveal the identity of an individual. Information relating to the financial or business affairs of any particular person (including the Council).	
Cannock Town Centre Levelling Up Fund - Permission to Spend	Head of Economic Development & Planning / Regeneration and High Streets Portfolio Leader	14/09/23 or 12/10/23	Yes	TBC		

Item No. 5.3

Item	Contact Officer / Cabinet Member	Date of Cabinet	Key Decision	Confidential Item	Reasons for Confidentiality	Representations Received
October 2023						
Business Growth Programme	Head of Economic Development & Planning / Regeneration and High Streets Portfolio Leader	12/10/23	No	No		
Amazon-Rugeley	Head of Economic Development & Planning / Regeneration and High Streets Portfolio Leader	12/10/23	No	No		
Local Development Scheme 2023	Head of Economic Development & Planning / Regeneration and High Streets Portfolio Leader	12/10/23	No	No		
Local Plan Update and Regulation 19 Consultation	Head of Economic Development & Planning / Regeneration and High Streets Portfolio Leader	12/10/23	No	No		

Report of:	Deputy Chief Executive-Place
Contact Officer:	David Prosser-Davies
Contact Number:	01543 464 202
Portfolio Leader:	Environment & Climate Change
Key Decision:	Yes
Report Track:	Cabinet: 10/08/23

Cabinet
10 August 2023
Approval of Food Law Enforcement Service Plan 2023-25

1 Purpose of Report

- 1.1 In accordance with the current Constitution, to seek Cabinet (and Council) approval of the revised Food Law Enforcement Service Plan 2023-25 (The Plan).

2 Recommendations

- 2.1 That Cabinet endorse The Plan at Appendix 1 and recommends to Council that The Plan be approved.
- 2.2 That Cabinet request Council delegates, to the Head of Regulatory Services, authority to review, amend, update, and approve future Food Law Enforcement Service Plans.

3 Key Issues and Reasons for Recommendations

Key Issues

- 3.1 The report seeks Cabinet approval of The Plan, which will then be taken forward for approval by Council in accordance with the Constitution.
- 3.2 The Plan describes how the Council's food safety and hygiene enforcement services will be delivered and how the Council complies with the relevant Food Standards Agency's [Food Law Code of Practice](#) and [Practice Guidance](#) requirements.
- 3.3 Whilst it was formerly a requirement that The Plan be approved by full Council, current guidance is that "...such Plans should be approved at the relevant level established for the local authority, whether that is Member, Member forum, or

suitably delegated senior officer level.” ([Framework Agreement, 2010](#)). It is therefore suggested that approval of future such plans be delegated by Council to the Head of Regulatory Services and that an annual review of The Plan is carried out by the appropriate scrutiny committee.

Reasons for Recommendations

- 3.4 The Council is required by the Food Standards Agency (FSA) to approve, and regularly revise, a Food Law Enforcement Service Plan.

4 Relationship to Corporate Priorities

- 4.1 The approval of The Plan contributes to Council priorities through:

Economic Prosperity:

- supporting and advising new and existing businesses.
- implementing risk-based, proportionate regulation.
- ensuring high standards of regulatory compliance.
- tackling non-compliant businesses, so these do not gain unfair competitive advantage.

Health and Wellbeing:

- Ensuring all food produced and sold in the District is safe and without risks to health;
- Investigating cases of infectious diseases and food poisonings.

5 Report Detail

- 5.1 Cannock Chase Council’s Food Safety Service Plan for 2023-25 (The Plan) describes how our food hygiene service will be delivered and how we will meet the needs of businesses and members of the public. The Plan has been drawn up in accordance with the FSA Food Law Code of Practice 2021 and the FSA Framework Agreement which together set out the Agency’s expectations on the planning and delivery of local authority food law enforcement.
- 5.2 The overriding aim is to ensure that all food produced, sold and consumed in Cannock Chase District is safe. Officers in Environmental Health work with local businesses to achieve improvements in food safety, hygiene, and reduce incidences of food poisoning. Compliant businesses are supported, and non-compliant businesses are identified and tackled so they neither put consumers at risk nor gain an unfair competitive advantage.
- 5.3 The key objectives of The Plan are:
- Ensuring the Council complies with the Food Standards Agency (FSA) Framework Agreement.
 - Maintaining and updating a database of all food businesses in the District.

- Ensuring the Council carries out food hygiene interventions in accordance with the minimum inspection frequencies prescribed by the FSA.
- Ensuring compliance with the Food Law Code of Practice when carrying out inspections and interventions.
- Promoting the [National Food Hygiene Rating Scheme](#).
- Ensuring all Officers fully satisfy national competency requirements.
- Delivering a programme of fair, consistent, risk-based, and proportionate regulation.

5.4 Key priorities for 2023-25:

- Delivering a full food intervention programme.
- Ensuring all businesses receive appropriate support / interventions to produce safe food.
- Ensuring our food premises database is accurate and up to date following the COVID pandemic.
- Implementing the revised statutory Food Law Code of Practice

5.5 Content of The Plan

5.5.1 The Plan is drafted in accordance with the FSA Framework Agreement and Practice Guidance and consists of the following key sections:

5.5.2 *Service Aims and Objectives*

As described in 5.3 and 5.4 above, together with links to corporate objectives and plans, as described in 4.1 above.

5.5.3 *Background*

This Section gives a local authority profile of the District, Organisation structure, scope of and demand on the service, together with information on the food premises database, communications with business, our enforcement policy and the National Food Hygiene Ratings Scheme (FHRS).

Cannock Chase Council participates in the FHRS which allows the public insight into food hygiene standards in premises that sell food direct to the final consumer. After inspection, each food business in the scheme is given a food hygiene rating, ranging from zero (urgent improvement necessary) to five (very good). The level of compliance with food safety and hygiene legislation is reflected in the rating - a rating of three indicates the premises are satisfactory, or 'broadly compliant'. The website can be viewed and ratings of individual businesses found at www.ratings.food.gov.uk.

The vast majority of the District's food businesses are compliant with food safety requirements (99% of those inspected) and 87% are in the highest food hygiene rating category of 5. This reflects the hard work and effort of officers and the excellent working relationship developed with the majority of local businesses.

5.5.4 *Service Delivery*

Shows our Inspection Plan and explains how we will deliver our interventions for 2023-25, together with an explanation of our “systems thinking approach”.

The FSA is currently reviewing the way in which enforcement activity is delivered nationally, through its Food Hygiene Delivery Model (FHDM) and is currently consulting stakeholders on the following proposed developments:

- a modernised food hygiene intervention rating scheme, including a decision matrix, to determine the appropriate frequency of food hygiene controls based on the risk posed by a food business establishment.
- an updated risk-based approach to the timescales for initial official controls of new food establishments, and for undertaking due official controls.
- increased flexibility as to the methods and techniques of official controls that can be used to risk rate an establishment, including the appropriate use of remote assessment.
- extending the range of activities that officers, such as Regulatory Support Officers, (who do not hold a ‘suitable qualification’ for food hygiene) can, if competent, undertake.

5.5.5 *Resources*

This section outlines the costs of the service, together with staffing allocation and our commitment to employee competence and development;

5.5.6 *Quality Assessment*

Outlines our approach to monitoring quality and consistency in service delivery, and the principles we adopt in our work, in particular our use of reflection to enhance knowledge and improve practice.

In addition to meeting competencies in 5 key areas, or ‘clusters’ all officers must undertake a minimum of 20 hours Continuing Professional Development activity (CPD) each year. The Service Plan details the commitment to assessing officer competence and providing this CPD.

5.5.7 *Review*

Outlines how we review our performance and details levels of customer satisfaction.

6 Implications

6.1 Financial

No implications. The Plan as drafted is deliverable within the present budget.

6.2 Legal

The production and publication of the Council’s Food Law Enforcement Service Plan is required by the Food Standards Agency, which is acting under the

powers vested in it by the Food Standards Act 1999. Approval of these Plans will ensure that the Council as a food authority meets its fundamental obligations under the requirements of the Agency's Official Controls Framework Agreement.

6.3 Human Resources

Delivery of the Plan is accommodated within existing resources and sufficient time and resource is allocated to enable officers to undertake the necessary training and development activity to maintain the requisite competencies.

6.4 Risk Management

Adoption and monitoring of such Plans ensure the Council is able to effectively discharge its statutory regulatory functions.

6.5 Equality & Diversity

The Plan ensures consideration is given to equality and protected characteristics in service delivery.

6.6 Climate Change

None

7 Appendices to the Report

Appendix 1: Updated Food Law Enforcement Service Plan 2023-25

Previous Consideration

None

Background Papers

None



Food Safety Service Plan

2023 - 25

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1 Service Aims and Objectives

1.1 Aims and Objectives

The Council is designated as a Food Authority and as such has a statutory duty to enforce Food Safety legislation.

The overriding aim of the food safety service is to ensure that food produced, prepared, sold and consumed in the District is safe.

In line with the [Council's Equality and Diversity Policy](#) we will ensure all those affected by this Plan are treated equitably, regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. This applies equally to food business proprietors, their employees and users / consumers.

Our primary service objectives:

- Complying with the Food Standards Agency (FSA) Framework Agreement;
- Maintaining a database of all food businesses in the District;
- To carry out food hygiene interventions in accordance with the minimum inspection frequencies prescribed by the Food Standards Agency
- Complying with the Food Law Code of Practice when carrying out inspections and interventions;
- Promoting the National Food Hygiene Rating Scheme (www.food.gov.uk/ratings) ;
- Ensuring all Officers fully satisfy national competency requirements;
- Delivering a programme of fair, consistent, risk-based and proportionate regulation;

1.2 Key priorities

Key priorities for 2023-26:

- Supporting businesses towards full compliance;
- Ensuring our food premises database is accurate and up to date
- Delivering the food intervention programme

We have worked with businesses and undertaken a systems thinking review of our service, following which we have identified our purpose when carrying out food safety regulatory activity:

“To help our businesses provide safe food”

We will assist businesses wherever possible to achieve this, but ultimately the responsibility for ensuring food is safe rests with the business concerned.

The work we do also contributes towards the [Food Standards Agency's Strategic Plan](#) by ensuring food is safe to eat and is what it says it is.

1.3 Links to corporate objectives and plans

The Council's four key corporate priorities are:

- Economic prosperity
- Health and Wellbeing
- The Community
- Responsible Council

The Food Safety Service contributes towards these priorities, particularly in the areas of:

Health and Wellbeing:

- Ensuring food is safe and is what it says it is
- Ensuring food is without risks to health;
- Investigating cases of infectious diseases and food poisonings;
- Proactive food sampling to anticipate and identify risks;

Economic Prosperity:

- supporting growth of the local economy through fair, consistent proportionate and accountable business regulation;
- ensuring that responsible, compliant businesses, are not put at a competitive disadvantage by those who choose not to comply.
- Providing free compliance advice and support to businesses throughout their journey

2 Background

2.1 Profile of the Local Authority¹

Cannock Chase District is one of eight Staffordshire Districts within a two- tier local Government structure. The District, resident to over 100,000 people in 2021 is the second most densely populated in Staffordshire.

Cannock Chase experiences a range of health inequalities which impact on the welfare of the District and its residents. Life expectancy at birth and at age 65 was below the national average during 2017-2019, with inequalities in health and life expectancy related to deprivation across the District.

Under-75 mortality rates for cardiovascular disease, cancer, liver disease and respiratory disease in the District were all above the England average in 2017-2019.

73.7% adults 18+ were overweight or obese in 2020/2021 - above the England average of 63.5%.

6.4% residents identified that they experienced 'bad' or 'very bad' general health in 2021. This was the highest proportion across Staffordshire and above the England average.

27.6% residents aged 16+ were estimated to be physically inactive - doing less than 30 minutes of physical activity per week - in 2020/2021. This was above the England average of 27.2%.

The proportion of children in Reception year (age 4-5) measured by the National Child Measurement Programme to have excess weight also exceeded regional and national averages during the period 2017/18- 2019/20. 25.5% of children within this age range in Cannock Chase were measured to have excess weight, the sixth highest proportion in the West Midlands. However, the proportion of Reception-age children identified to be obese was close to the England average of 9.7% at 9.9%.

In 2021, 96.6% of people in Cannock Chase identified their ethnic group within the "White" category (compared with 97.7% in 2011), while 1.2% identified their ethnic group within the "Asian, Asian British or Asian Welsh" category (compared with 1.0% the previous decade).

¹ [Cannock Chase District Needs Analysis 2021](#)

2.2 Organisational Structure

The **Council** consists of 41 elected Members, representing the residents of 15 Electoral Wards of the District. The full Council has responsibility for adopting and changing the constitution, Council Tax and budget setting, and approving the policy framework for the organisation.

The **Cabinet** consists of seven elected Members, including the Leader. Each Member of the Cabinet (known as Portfolio Leaders) has their own area(s) of responsibility as determined by the Leader. These Portfolio Leaders work closely with Officers to ensure services are provided within Council Policy.

The Food Safety Service is delivered by the Food and Safety Team, which is part of the Council's Environmental Health & Public Protection Service (outline structure of the service and relationship to elected members to be inserted at Appendix 2).

Lead Officers responsible for Food Safety

David Prosser-Davies,
Environmental Health & Public Protection Manager
Tel. 01543 464202
davidprosser-davies@cannockchasedc.gov.uk

Laura Nichols, Senior Environmental Health Officer, Tel 01543 46423
lauranichols@cannockchasedc.gov.uk

Consultant in Communicable Disease Control

Dr. Musarrat Afza UK Health Security Agency, , Stonefield House, St. George's Hospital, Corporation Street, Stafford, ST16 3SR Tel. 01785 221126 OR 0344 2253560 (Option 2, and 2 again)
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2.3 Scope of the Food Service

Food Safety teams play a vital role in protecting public health, and protecting consumers from those who might exploit them by selling fraudulent, inauthentic, or unsafe food. This role becomes even more important at times when people and businesses are feeling the impact of the rising cost of living. An outbreak of foodborne disease can have devastating consequences for people's health, as well as for local and national food businesses; 160 people die each year from eating contaminated food, and over 15,000 receive hospital treatment.

The Food Service is delivered by the Food and Safety Team. The Team is operationally managed on a day-to-day basis by the Senior Environmental Health Officer who reports to the Environmental Health and Public Protection Manager. These Officers together share the Lead Food Officer role.

The Council is not a Unitary Authority and therefore shares its duties under the Food Safety Act with the Trading Standards Department of Staffordshire County Council.

Team Structure

The Food & Safety Team consists of a total of five members, equating to 3.7 full time equivalent (fte) officers. It is estimated that approximately 1.9 fte are engaged in delivering the food service, which comprises the elements below:

- Maintaining an up-to-date database of all food businesses in the District;
- Undertaking programmed food safety / hygiene interventions.
- Food and hygiene complaint investigations;
- Responding to food alerts from the Food Standards Agency;
- Providing free compliance advice and support to food businesses;
- Commenting on planning and licensing applications;
- Investigating suspected and confirmed incidents of food poisoning;
- Assisting in the investigation and control of infectious disease outbreaks;
- Raising awareness of food allergens during routine inspections,
- Preventing consumption of unfit, unsafe and non-compliant food;
- Participating in regional and national food sampling programmes;
- Participating in the Central England Food Liaison Group (North)
- Undertaking projects with partners aimed at improving wider health outcomes;
- Participating in regional and national food sampling programmes (resources permitting);
- Undertaking projects aimed at improving wider health outcomes (resources permitting);

The Food Safety Service is delivered alongside a number of Environmental Health functions including: health and safety enforcement; general public health activities; licensing (gambling, alcohol, tattooing, piercing etc.), street trading, response to planning consultations, smokefree compliance and refuse / duty of care / drainage / nuisance issues in commercial premises.

The Service includes compliance checks / actions on the above issues as part of routine intervention work together with ad-hoc initiatives to support wider service delivery.

In 2020/2021 all members of the food and safety team were involved in the COVID 19 pandemic response. Liaison with partners (County Council Trading Standards, Public Health and Police, Local Resilience Forum) took place specifically in relation to the emerging issues and enforcement of restrictions.

A COVID support team was formed, using resource from within the wider service, to undertake compliance and enforcement work associated with restrictions. Resource was seconded out of the food and safety, licensing and environmental protection teams to assist in this response. The food and safety team undertook a significant workload of premises visits to both advise on compliance and enforce restrictions. The team also carried out investigation and response work associated with workplace outbreaks of COVID.

2.4 Demands on the Food Service

There are **897** food businesses in the District (01.04.23), the vast majority of which are of a retail or catering nature. There are a small number of manufacturers.

Premises by type	Number
Primary Producers	2
Manufacturers and Packers	12
Importers/Exporters	1
Distributors / Transporters	14
Retailers	233
Restaurants and Caterers	635
Total premises	897

Risk profile of food premises

Risk Category	Number of Premises	Required Minimum Intervention Frequency
A	0	Every 6 months
B	11	Every 12 months
C	114	Every 18 months
D	317	Every 24 months
E	422	Alternative Enforcement Strategy 36 monthly
OTHER*	33	
TOTAL	897	

* Businesses not included in the programme, or unrated.

There are 11 premises subject to approval under Regulation 853, of which three are approved for meat products, one for egg products and one for fish products. Additionally there are 6 approved cold stores.

Imported Food

The profile of our businesses is such that they do not supply a great deal of imported food. Authorised officers will, however, ensure that food hygiene interventions take account of imported food related issues where appropriate. Reasonable steps will be taken to assess the legality of imported food from non-EU countries and effective action will be taken on non-compliance in order to protect public health. Officers will seek opportunities during routine interventions, revisits and investigation of complaints etc. to carry out imported food checks including documentary, identity, physical checks and sampling. All officers have received relevant training on imported food law.

Food Hygiene Ratings

Cannock Chase Council participates in the National Food Hygiene Rating Scheme (FHRS) which allows the public to have insight into food hygiene standards in premises that sell food direct to the final consumer. Each food business in the scheme is given a food hygiene rating after it has been inspected ranging between 0 (urgent improvement necessary) and 5 (very good). The level of compliance with food safety and hygiene legislation is reflected in the rating - a rating of 3 indicates the premises is satisfactory, or 'broadly compliant'. The website can be viewed at www.ratings.food.gov.uk. As of January 2023, 97.5% of food businesses in our District were broadly compliant.

Profile of National Food Hygiene Ratings for Cannock Chase District:

Rating	Number of Premises
5 (Very good)	721
4 (Good)	84
3 (Generally Satisfactory)	33
2 (Improvement Necessary)	11
1 (Major Improvement Necessary)	12
0 (Urgent Improvement Necessary)	0
Total	893

*numbers exclude premises yet to be rated, approved premises, or those otherwise exempt from the scheme.

Food Premises Database

We use software to create and manage a database of all food businesses in the District. All of our work is recorded and this is used to assess the overall risk for each premises. The database is continually updated using information from officers together with:

- Food premises registration applications;
- Periodic surveys of the District;
- Planning and Licensing Act applications;
- Websites, social media etc.

Service Delivery and Equality

The operational base of the Food Safety Service is the Council's Civic Centre, which is open between the hours of 10:00 – 16:00 Monday to Friday.

Service Delivery Point:

Address	Hours	Contact details
Cannock Chase Council Civic Centre Beecroft Road, Cannock Staffs WS11 1BG	Mon, Tue, Weds, Thurs and Fri (10.00-16.00)	01543 462621 environmentalhealth@cannockchasedc.gov.uk customerservices@cannockchasedc.gov.uk

If callers are unable to access the Civic Centre, every effort is made to make a home visit where necessary.

At present there is no out of hours service for the receipt of *routine* requests for service. However, food safety *emergencies* (such as outbreaks notified via UKHSA) and Food Alerts are covered by the emergency standby system (an Officer carries a mobile telephone and will receive text Alerts from the Agency subscription service); Officers also have remote access to internet and e-mails and will access these between the hours of 9:00-17:00. Programmed inspections and visits are undertaken out of normal office hours as required to observe high risk activities, e.g. evening opening premises / early morning visits to observe practices / weekend events.

Communicating with businesses

The use of technical or legal terminology can be challenging and may make understanding difficult; efforts will be made, so far as is possible, simple language and expressions in order to aid understanding. Where possible written advice and guidance will be made available in a range of languages, and the multilingual Safer Food Better Business packs will be used.

Equality

Our Service will treat individuals and communities fairly and equitably, taking into account personal beliefs, race, age, disability, gender and sexuality of all our customers. This could require services to be delivered in different ways for different people. Our aim is to make it easy to comply with requirements and minimise burdens where possible.

Whilst the District has a significant proportion of restaurants, takeaways and general stores operated by proprietors from Black and Minority Ethnic (BME) communities, language difficulties are not frequently encountered in delivering our services. The Section makes use of internet translation apps, translators and interpreters to assist businesses when necessary. .

Officers frequently encounter food business proprietors who have literacy difficulties and will work with such operators to ensure that this does not become a barrier to producing safe food. Officers have developed a range of tools and techniques to assist in this process, including:

- Use of visual aides;
- Translated information cards;
- ATP device to show cleaning effectiveness;

- UV demonstrations of contamination;
- Bespoke action plans;
- Practical cleaning and hand wash demonstrations.

We ask businesses how they wish to communicate with us and will use letters, e-mail, telephone or face to face methods according to the needs of the business, whilst having regard to the Code of Practice.

2.5 Enforcement Policy

A revised and updated [Enforcement Policy](#) takes account of the [Regulators' Code](#). The Enforcement Policy guides officers towards a staged approach, applying legislation in a proportionate, consistent, and transparent way. Enforcement action will be targeted at those situations that give rise to the greatest risks to safety or health and at non-compliant businesses which have failed to act on previous advice.

In our dealings with businesses we will:

- Carry out our activities in a way that supports compliance and growth.
- Provide simple and straightforward ways to communicate with our businesses.
- Base our regulatory activities on risk.
- Ensure clear information, guidance and advice is available.
- Ensure that our approach is transparent, fair and proportionate.

Information about the Council's complaints procedure can be found on the Council's website www.cannockchasedc.gov.uk

3 Service Delivery

3.1 Interventions at Food Establishments

Photo insertion here of inspection activity

The regulation of food premises is undertaken in accordance with the Food Safety Act Code of Practice. All food premises are subject to a detailed assessment based on particular criteria including types of food and method of handling, consumers at risk, level of current compliance in terms of practices, procedures including cleanliness and confidence in management. This numerical calculation is used to rate premises according to risk from A (highest risk) to E (lowest risk).

The Authority follows the inspection ratings in the [Food Law Code of Practice](#) and aims to carry out interventions at 100% of highest risk (A and B) premises, 100% of medium risk (C and D) premises and 100% of lowest risk (E) premises due in the current year as per Food Standards Agency expectations.

Inspection Plan for year beginning 01 April 2023

Risk category	A	B	C	D	E	Other	Total
Number of Premises	0	14	119	313	419	26	893
Inspections Scheduled	0	14	79	152	30	0	315

The programme does not include newly opened businesses which represents an additional workload on top of the programme. On average approximately 50 new businesses per annum are identified and inspected.

We will use the range of interventions permitted within the Code of Practice, and in 2023-24 have identified the following programme:

Risk category (Inspections due)	2023-24 Intervention
A (0)	N/A
B (14)	Inspection using Systems Thinking (ST) principles
Broadly compliant C (79)	Inspection or Audit using ST principles
Broadly compliant D scoring 30 or 40 in "type of food / method of handling" (128)	Partial Inspection or Audit using ST principles
Other Broadly compliant D (24)	Other official control from Code para 4.4.1.3
E (30)	Non official control based on visit and / or information gathering
Unrated (16)	Inspector discretion based on ST principles

Note that any premises subject to approval under Reg 853 will always receive a full inspection.

The current available resource of 1.9 fte Officers can accommodate this programme of work, together with the reactive workload and project work. The yearly programmed intervention plan can potentially be severely disrupted by food poisoning investigations, investigation of offences / preparation of legal proceedings, national food alerts, food sampling and non-food related matters such as health and safety accident investigations, all of which can place considerable additional demands on officer time.

Interventions are key to improving compliance with food law by food business operators. The range of possible interventions allows authorised officers to use their professional judgement to apply a proportionate level of regulatory and enforcement activity to each business.

Interventions fall into either official control or non-official control as follows:

Official Control interventions include:-

- monitoring
- surveillance
- verification
- audit
- inspection
- sampling and analysis

Interventions which are not Official Controls:-

- targeted education & advice
- information & intelligence gathering

Systems Thinking Interventions

Over recent years we have significantly changed the way in which we work, using a “systems thinking” approach which identifies the purpose of the service from the customer perspective. We identified our customer as the food business operator, and our identified purpose is “helping our businesses produce safe food”. We have examined our processes and have identified the value steps, i.e. those which directly contribute to achieving purpose. We have also removed non-value steps (where this is legally possible).

We differentiate between ‘safe’ and ‘unsafe’ non-compliance, focussing on areas of risk and ensuring what we do is geared towards achieving purpose. Our officers are given discretion in how they work with businesses, within broad guidelines and principles. Officers work with new businesses to achieve as a minimum a broadly complaint level of food safety. This can involve several announced / unannounced visits to each business, observing practices and talking with staff. A staged approach, using a range of tools and techniques, is used to ensure the business reaches at least broad compliance. Reflection with colleagues on complex cases is undertaken which reinforces individual and organisational learning and improves consistency of approach.

Revisits

We carry out formal ‘re-visits’ as per the Code of Practice definition, to address any items of non-compliance scoring 15 or higher in hygiene / structure, or 20 or higher in confidence in management (CIM). Our view is that such items, if having an impact on food safety, should be addressed at the earliest opportunity. We encourage businesses to provide evidence wherever possible of the action taken to address non-compliance but reserve the right to carry out an on-site revisit when considered necessary.

Alternative Enforcement Strategy (AES)

The Food Law Code of Practice and Practice Guidance permit authorities to adopt Alternative Enforcement Strategies (AES) for the lowest risk businesses. We use a combination of methods to inspect such premises, such as telephone surveys, self inspection questionnaires and site visits. Our view is that food business operators (FBOs), particularly of small businesses, value face to face contact with us, so we aim to ensure a proportion of these premises are visited by a suitably qualified officer. This view is supported by research into food safety compliance in small businesses.

During 2022-2023, following the COVID pandemic, we carried out a significant number of face to face visits to E rated businesses that were deemed to be higher risk, providing advice and guidance and collecting information on the nature of the food activities.

An important part of our AES is the receipt of new information about premises, which may then trigger a response such as an inspection, phone call or letter.

Possible triggers:

- Consumer Complaints
- New food registration
- Association with food poisoning outbreak
- Food Alerts for products on sale
- Planning /Building Regulations applications
- Licensee/DPS change

Where new information leads to a visit and subsequent re-rating, this may bring the premises back into the main intervention programme.

3.2 Food Complaints

Photo of food complaint insert

The Service receives approximately 70 complaints per annum relating to foods and / or food premises / food handlers. These complaints are responded to within five working days, or sooner if deemed of an urgent nature (immediately in some cases). When we receive complaints relating to foods produced outside the District we always refer these to the Local Authority in whose area the food was produced (the Originating Authority) or the Primary Authority (the Authority with which the business has a formal support agreement) as the case may be. We investigate complaints relating to food produced by food businesses within the District using a risk-based approach.

Numbers of food complaints received by year are shown below

Year	2019-20	2020-21	2021-22
Number of Complaints	75	70	63

3.3 Primary Authority and Home Authority Principle

The Primary Authority and Home Authority Principles involve one Local Authority, through a formal written agreement, agreeing to act as a single point of contact and provider of advice for larger multi-site food companies who may have operations in many local authority areas (particularly caterers and retailers, manufacturers etc.) In the case of Primary Authorities, this advice is referred to as assured advice and must be taken into account by other enforcing authorities.

Where there are several manufacturing units located some distance away from the head office, then the local authorities in whose areas these units are located are referred to as the Originating Authority. The Council will always consult a Home or Originating Authority where enforcement action is possible or where there is evident concern over a company's operations.

The Council is currently the originating authority for a small number of food manufacturers and entered a formal Primary Authority Partnership in 2011 for food safety and health and safety regulation. This presents a limited demand for both proactive and reactive advice.

3.4 Advice to Businesses

Assisting businesses to comply with the law is a key priority for us. The [Regulators' Code](#) makes clear that businesses should be provided with timely, concise and accessible information and advice.

Approximately 300 requests for advice are received each year. Advice and support to businesses is provided through:

- Contact during inspections and interventions;
- Targeted projects
- Provision of Government, or Council produced leaflets / publications;
- Response to requests for advice and on site visits by request;
- Pre-planning or pre-development advice for new and existing businesses;
- One to one support for both general compliance and improvement plans;
- Information on our website;

3.5 Food Sampling

We will ensure that food is inspected and sampled in accordance with our sampling procedure, relevant legislation, Food Law Code of Practice and Practice Guidance, to ensure food meets the food safety requirements.

Microbiological food sampling is carried out to:

- determine food safety standards in the District;
- investigate food complaints and suspected cases of food poisoning;
- participate in national co-ordinated sampling programmes;
- provide information on food safety standards in the District;
- identify issues of concern which can be addressed on food inspections;

Numbers of food samples taken have reduced over recent years, reflecting a national trend. Over the last three years, and due to covid restrictions sampling has included:

- Cooked meats
- Environmental swabs of premises and equipment
- Sampling of approved premises products

Year	2019-20	2020-21	2021-22
Microbiological Samples	27	0	184*
Unsatisfactory Results	3	0	53*

*The high numbers in 2021-22 reflects investigative work in connection with a particular Case

On receipt of an unsatisfactory result, the Senior EHO will consider what action, if any, is appropriate. Food Business Operators will always be advised of the results and may be written to or re-visited depending on the circumstances and the nature of the result. Re-sampling may also be undertaken if considered necessary.

The Council operates its Sampling Programme in full co-operation with the Central Food Group North (Staffordshire & Shropshire Food Liaison Group) (“The Food Group”) which itself includes representation from the UK Health Security Agency (UKHSA). The Council contributes to, and participates in, any sampling programmes identified by the Group as well as any locally identified sampling priorities, as resources allow.

Samples for microbiological examination are sent to the UKAS accredited PHE laboratory by courier, under a formal service level agreement. Samples for analysis are sent to the County Analyst, also UKAS accredited.

Sampling case study 2023

In 2022 Officers visited all butchers and small producers of cooked meats to sample foods like ham, cooked chicken and brawn, looking for Listeria and other pathogenic bacteria in food.

Officers collected 35 food samples and took 55 swabs from equipment and premises where cooked meats were produced. All cooked meats met the EU legal requirements, but at least one piece of equipment at every premises and some cooked meats failed to meet UK guidelines for microbiological safety and/or hygiene standards.

All businesses received guidance regarding good practices, cleaning and applying suitable dates to food. Officers then revisited the businesses and resampled, which found a marked improvement in all the business's hygiene standards.

3.6 Control and Investigation of Outbreaks and Food Related Infectious Disease

The Council operates its infectious disease investigation policy in accordance with a protocol updated by Central England Food Liaison Group (North). There are regular liaison meetings between UKHSA and local authorities in Staffordshire.

Our objectives in respect of this are:

- To administer and implement our statutory responsibilities relating to the control of infectious disease.
- Investigate all notifications of confirmed food poisoning cases and likely sources of infection whether confirmed or not at the earliest opportunity.
- Where a source is identified take appropriate action to ensure risk of spread is controlled.
- Protect the well-being of individuals at risk by taking action to contain the spread of infection and provide advice and information regarding personal hygiene, food handling and control of infection.
- Exclude those in high-risk groups in consultation with the Consultant in Communicable Disease Control (CCDC).
- A Countywide "Outbreak Control Plan" is operated including standardised food poisoning investigation questionnaires.

Over recent years, the Section has received, on average, 132 notifications of food poisoning, or suspected food poisoning, each year. The majority of these, in line with national figures, are Campylobacter cases (approximately 70%). Information and advice is provided in regard to these notifications.

Table showing trends in food poisoning or suspected food poisoning cases

Year	2019-20	2020-21	2021-22
Number of individual notifications *	132	121	143

*includes campylobacter questionnaires and visits

The Council's membership of the Health Protection Liaison Group and its close liaison with the Consultant for Communicable Disease Control (CCDC) ensure the adoption of a consistent approach throughout the Staffordshire area.

3.7 Food Safety Incidents

The Food Standards Agency declares [food safety incidents](#) from time to time and uses a "Food Alert" to advise authorities of the circumstances (for example a product withdrawal due to contamination) and the action required. Food Alerts may be either "For Information" (most common), or "For Action" (less common but requiring swift action to protect the public's health). The Council subscribes to the smarter communications platform and also receives hazard alerts by FSA e-mail and text messages. Food Alerts are actioned in line with the FSA Food Law Code of Practice and a procedure note explains to Officers show such incident should be dealt with.

Numbers of food alerts received by year

Calendar Year	2019	2020	2021
Number of Food Alerts	175	145	150

3.8 Liaison with other organisations

- The Council is represented on the Food Group (see Section 3.5), and the Annual Water Quality Meeting with South Staffordshire Water.
- The Central England Food Liaison Group (North) provides a mechanism for discussion of relevant food matters, the provision of training on a county-wide basis, the formulation of policy, documentation and guidance and co-ordinated responses to Government and Central Agencies. The Group includes representatives from FSA, PHE, County Trading Standards and all local authorities within Staffordshire and Shropshire, including Stoke on Trent.
- There is an extensive network within both Staffordshire, Shropshire and the West Midlands, of informal officer contacts. This greatly assists with both consistency and adoption and sharing of best practice.
- The Council is fully committed to achieving consistency in enforcement, though will be guided by the systems thinking principles and our own enforcement policy.
- The Section fully participates in activities and training arranged by the Food Group. However In the past two years this has not been available due to covid restrictions
- The Food and Safety Team participated in Food Standards Agency (FSA) on-line national consistency exercises in 2021 and 2022.

Liaison within the Council

All planning applications concerning food premises are forwarded to the Food and Safety Team for comments. We have close links with Building Control, being involved in commenting on plans for new and existing food businesses. We also carry out "Duty of Care" Inspections as part of our food visits and refer any non-compliance to colleagues in our Environmental Protection Team

We have close links with both private sector housing and the community safety team. We participate in the Responsible Bodies Group (RBG) and have assisted in dealing with unsafe accommodation, possible Child Sexual Exploitation (CSE) and illegal immigration issues associated with food businesses.

3.9 Food Safety Promotion Activity

The team is involved in a programme of project work aimed at improving service delivery and contributing to better health outcomes. During 2021-23 we have delivered the following:

- We delivered a project in 2022-23 with our Butchers and small-scale meat producers on microbiological safety of cooked meats and cleanliness of premises and equipment.

- We have undertaken an extensive project to review and update our records and file compliance for approved premises and undertaken sampling.
- We have delivered the programme of inspections in line with the FSA Covid recovery targets.

4 Resources

4.1 Financial Allocation

The total costs of the Food and Safety Section* 2022-23 are given in the table below.

Cost Centre*	2022-23
Employee Costs	240,000
Transport Costs	9,000
Supplies and Services (Inc. software)	24,000
TOTAL	273,000

* Cost Centre given includes food safety, health and safety, smokefree and some public health work, including welfare / public health burial / cremations .

All legal action is dealt with by the Council's shared legal services function including advice and litigation with the cost of this service being recharged through the internal recharge system. Every effort is made to recover costs for successful prosecutions and time spent in preparing evidence is recorded with a schedule of costs being presented for payment upon conviction.

4.2 Staffing Allocation

The Organisational Chart of the Environmental Health & Public Protection Service is given at Appendix 3 [to be inserted later].

The current available resource of 1.9 fte Officers is made up of Environmental Health Officers (EHOs), a Food and Safety Officer (FSO), and a Trainee Food and Safety Officer (TFSO). The EHOs and FSO are fully authorised and competent to carry out the full range of interventions, compliance and enforcement duties required. The TFSO is undertaking a degree qualification and undertakes tasks which do not require full authorisation, including: assisting authorised officers, alternative interventions; education, advice, and coaching; information gathering.

All Officers carrying out official controls and associated duties hold either a Higher Certificate in Food Control, BSc. MSc. or Diploma in Environmental Health, together with a Certificate of Registration from the Environmental Health Registration Board (EHRB); all officers have been assessed against, and meet, the FSA competency requirements.

4.3 Employee Development Plan

All employees are included within the Council's Personal Development Review (PDR) process, where performance is appraised and development needs are identified.

Training and development is delivered in accordance with the Section's Competency Requirements. The requirement in the Food Law Code of Practice for a minimum of 20 hours Core / Other CPD is built into the training programme. CPD is how authorised

officers maintain, improve, and broaden their knowledge and skills, and develop the personal qualities and competencies required to undertake their food law enforcement role.

Officers have the opportunity to access external courses as determined following their Performance Development Reviews (PDRs). CPD is also achieved through discussion and peer learning. We believe the best way of ensuring learning is through holding regular structured reflection sessions where officers discuss relevant cases / issues with colleagues to ensure a consistent approach is achieved; we capture 'learns' from these discussions and incorporate these into our working practices.

We are fully committed to officer training and make extensive use of FSA free training and on-line resources where possible to ensure all officers fully satisfy code of practice requirements;

All training undertaken is reviewed as to its usefulness and practical applications and feedback to other officers is done as necessary.

5 Quality Assessment

5.1 Quality Assessment and internal monitoring

The quality of services delivered is directly linked to the competency and attributes of officers. Reflective practice is used in the Food & Safety Team to aid group and individual learning. Within a team environment, the opportunity is gained, through double-loop learning, to capture and share tacit knowledge and insight gained by field officers. This is of great value to the organisation, as it offers the possibility of innovation. An environment exists within which value can be added through group learning and critical reflection of practice, which then is more likely to lead to changes in behaviour amongst the team, leading to service improvement.

Our Principles

Our work is governed by the following fundamental principles:

Risk-based approach:-

- Focus on critical control points
- Flexibility to do the right thing
- Actions proportionate to risk
- Purpose driven

Do the right thing:-

- Be human
- Trust employees
- Two way communication
- Respect (colleagues and customers)
- Cause no harm
- Don't break the law
- Be supportive (to colleagues)

In adopting the above principles, we have now identified that in many cases the risk rating applied to a premises was incorrect, as the previous inspection method did not allow the full identification of risks. It was found that FBOs may have learned answers to questions from inspection pro-formas, or felt the need to conceal the true practices through a mistrust

of Officers. This in effect resulted in an incorrect assessment of risk and, consequently, incorrect frequency of inspection.

Monitoring

The Section has fully documented procedures which are subject to regular review, to assist with meeting The Standard and in addition to the above, a range of measures are used to ensure quality of services, and compliance with procedures including:

- accompanied visits;
- team meetings;
- audits of reactive / response work;
- monitoring of Notices served

6 Review

6.1 Review against the Service Plan

Impact of the Covid 19 Pandemic on the Service

In March 2020 the Food Standards Agency advised all Local Authorities that food Hygiene inspections and interventions could be deferred until 30 September 2021.

On 16 June 2021 the Food Standards Agency wrote to all Local Authorities to advise them of the COVID-19 Local Authority Recovery Plan which set out guidance and advice for local authorities on delivery of official food controls and related activities in the period 1 July 2021 to 2023/24.

The Service recovered all all inspections and interventions deferred during the COVID pandemic by March 2023, as envisaged by the Recovery Plan.

Performance measures are reviewed quarterly. The key local food service performance indicator is the percentage of food businesses which, when inspected, are broadly compliant. The figure at March 2023 was 98%.

Subject to resources, and to unforeseen urgent work demand, such as major reactive issues, we expect to deliver 100% of all due interventions in high-risk (A and B) medium risk (C and D) lowest risk (E) rated premises in accordance with FSA expectations. Where our resources are unable to fully meet this planned delivery, we will prioritise according to risk.

The process of review will be commenced in April each year and an Annual Report produced, having regard to:

- performance over the previous 12 months;
- resources available over the previous 12 months;
- the Framework Agreement on Authority Food Law Enforcement,
- guidance from the Food Standards Agency
- results of external audits and peer reviews;
- examples of best practice observed elsewhere;
- responses to customer satisfaction surveys
- consultation with local businesses and the community;

Identification of Variation from the Service Plan

Reports on performance against targets will be made to the Cabinet Member and the relevant Scrutiny Committee, when any variances against this Service Plan, including resource implications, will be addressed.

Performance against response targets

- Requests for service (RFS) in relation to the food safety service have a response time of 24 hours, three or five working days, depending on risk priority. The local performance indicator is to meet the response times 95% of the time. Performance for 2022-23 against target is shown in the table below.

Response Priority	% response within target
1 day (same day)	97
3 days	100
5 days	98
Average	98

* shows RFS numbers for all work of food and safety section

Performance Indicators

There are in addition new monthly Performance Indicators to reflect our ways of working and to enable management to measure our service against the Competency Framework and the targets set out within our performance development reviews.

Number of food business inspections carried out as % of those due (all risks)	H
% of food businesses which when inspected are broadly compliant	H
% of food businesses (of total) awaiting a rating inspection (unrated)	L
End to end time for service requests (days) (trend reported quarterly) (by officer / by category)	L
Numbers of "live" pending service requests (i.e. the current workloads of officers) (quarterly by officer / category)	L
Customer satisfaction with our service as measured by our customer survey	H

Note that H or L indicates that good performance is shown by a High or Low number respectively

6.2 Areas for Improvement

The systems thinking approach will be continually reviewed using our measures, and service improvements introduced accordingly. We hope to expand the application of the principles to our wider service areas.

A key area for improvement is our engagement with businesses and the public and we hope to use consultation to identify areas of improvement that will be valued by our customers.

Report of:	Deputy Chief Executive-Place
Contact Officer:	David Prosser-Davies
Contact Number:	01543 464 202
Portfolio Leaders:	Environment & Climate Change
Key Decision:	Yes
Report Track:	Cabinet: 10/08/23

Cabinet
10 August 2023
Approval of Environmental Health & Public Protection Service Enforcement Policy 2023

1 Purpose of Report

- 1.1 In accordance with the current Constitution, to seek Cabinet (and Council) approval of the revised Environmental Health & Public Protection (EHPP) Service Enforcement Policy 2023 (The Policy).

2 Recommendations

- 2.1 Cabinet endorse The Policy and annexes at Appendices 1 and 2 and recommends to Council that the Policy be adopted.
- 2.2 Cabinet request Council delegates, to the Head of Regulatory Services, authority to review, amend and / or update The Policy as necessary, due to changes in legislation, government guidance and in the interests of operational efficiency.

3 Key Issues and Reasons for Recommendations

Key Issues

- 3.1 Local Authority Regulatory Services play a key role in supporting local economic prosperity and community wellbeing. These services ensure that well-run, compliant businesses are supported and that consumers, workers and the environment are protected.
- 3.2 On occasions, the Council's Environmental Health & Public Protection (EHPP) Service takes enforcement action for failure to comply with legal requirements against licence holders, businesses, employers and even members of the public. Enforcement action can range from warning letters to formal notices, fixed penalty notices, suspension or revocation of licences, cautions and prosecutions.

- 3.3 Following consultation the updated Policy at Appendix 1 has been produced for adoption by Council. The Policy has been extensively revised and covers enforcement of all legislation administered by the EHPP Service including that which relates to: Private Sector Housing, Public Health, Licensing, Food Hygiene, Health and Safety, Smokefree, Statutory Nuisances and Environmental Protection issues such as air pollution, noise, littering, fly tipping and dog fouling.
- 3.4 Adoption of this updated enforcement Policy will ensure the Council is able to evidence a clear policy framework within which enforcement decisions and enforcement actions are taken.

Reasons for Recommendations

- 3.5 In order to effectively carry out its regulatory functions, the Council and its Officers require a framework to guide decision making. The Policy provides this and seeks to ensure that decision making is transparent and that a graduated approach to enforcement is adopted wherever possible.

4 Relationship to Corporate Priorities

- 4.1 The adoption of The Policy contributes to Council priorities through:

Economic Prosperity:

- supporting and advising new and existing businesses.
- implementing risk-based, proportionate regulation.
- ensuring high standards of regulatory compliance.
- tackling non-compliant businesses, so these do not gain unfair competitive advantage.

Health and Wellbeing:

- Cleaner environment, through investigation of littering, fly tipping and dog fouling, regulation of industrial processes, and dealing with noise, contaminated land etc.
- Inspection of food premises, investigation and control of infectious diseases and food poisoning, ensuring food produced and sold is safe.
- Inspection of workplaces and investigation of workplace accidents and complaints, ensuring employees are protected and high standards of workplace health and safety.

5 Report Detail

- 5.1 On occasions, it is necessary for the Council's EHPP Service to take enforcement action against licence holders, businesses, employers and even members of the public for failure to comply with legal requirements. Consideration and determination of enforcement action is guided by the Council's enforcement policy.
- 5.2 The Policy guides the decision-making process, provides a framework, and ensures transparency, consistency and proportionality in decision making. The policy covers several areas including:

- Scope and meaning of 'Enforcement'.
 - Notifying alleged offenders.
 - Deciding what level of enforcement action is appropriate.
 - Determining whether a *Prosecution or Simple Caution* is viable and appropriate.
 - Who decides what enforcement action is taken.
 - Liaison with other regulatory bodies and enforcement agencies.
 - Considering the views of those affected by the offences.
 - Protection of Human Rights.
- 5.3 The primary objective is to achieve regulatory compliance. The Policy recognises that prevention is better than cure and that it is preferable to avoid enforcement action, achieving compliance either by raising awareness or persuasion. However, there are circumstances where offences are serious, or non-compliance is persistent, and on these occasions enforcement action is required. A sanction that is relevant and proportionate to the offence or contravention will always be chosen.
- 5.4 The Policy provides guidance to all stakeholders (Members, officers, proprietors, licence holders, employers, employees, statutory and voluntary agencies, partner agencies and members of the public) on how the Council will enforce relevant legislation. The Council has a range of enforcement options available, as shown below, not all of which are available in all circumstances:
- No action.
 - Informal Action and Advice (for example a written warning).
 - Fixed Penalty Notices.
 - Formal Notice.
 - Forfeiture Proceedings.
 - Seizure of goods/equipment.
 - Injunctive Actions.
 - Refusal/suspension/revocation of a licence.
 - Simple Caution.
 - Prosecution.
 - Proceeds of Crime Applications.
- 5.5 The adoption of The Policy will ensure the Council is able to evidence a clear policy framework within which enforcement decisions and enforcement actions are taken. The Policy will ensure that the Council discharges its statutory functions effectively and that decisions made by Officers and Members are transparent, proportionate and comply with Human Rights and Equalities legislation. The policy provides assurance that decisions in relation to enforcement can withstand challenge and scrutiny by outside bodies including the Courts.
- 5.6 The Policy was subject to lengthy public consultation via the Council's website and social media between 23 March - 05 May 2023. No consultation responses were received.

6.1 Financial

The Policy does not have any direct financial implications.

6.2 Legal

The adoption of this updated enforcement Policy will ensure the Council is able to evidence a clear policy framework within which enforcement decisions and enforcement actions are taken. The Policy ensures the Council discharges its statutory functions effectively and that decisions made by Officers and Members are transparent, proportionate and comply with Human Rights and Equalities legislation. The policy provides assurance that decisions in relation to enforcement can withstand challenge and scrutiny by outside bodies including the Courts.

6.3 Human Resources

None

6.4 Risk Management

The Policy ensures the Council is able to effectively discharge its statutory regulatory functions.

6.5 Equality & Diversity

The Policy ensures consideration is given to equality and protected characteristics in service delivery and in making enforcement decisions. An Equality Impact Assessment has been carried out for this Policy.

6.6 Climate Change

None

7 Appendices to the Report

Appendix 1: Environmental Health & Public Protection Enforcement Policy 2023

Appendix 2: Private Sector Housing Enforcement Policy 2023 (includes Appendices 1-3)

Previous Consideration

None

Background Papers

None



Environmental Health & Public Protection Service

Enforcement Policy

Edition 1.0

2023

Cannock Chase District Council

Environmental Health & Public Protection Service Enforcement Policy

2023

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Edition History

Edition	Amendments	Date	Officer
1.0	New policy	March 2023	David Prosser-Davies

1.0 Introduction

- 1.1 Local authority regulatory services, including our Environmental Health & Public Protection (EHPP) Service play a key role in supporting local economic prosperity and contributing to community health and wellbeing. In order to deliver the Council's corporate priorities we must ensure these services are well-run, legally compliant businesses are supported and that residents, consumers, workers, animals and the environment are protected from harm. We want a Cannock Chase that local residents are proud to call home.
- 1.2 This enforcement policy provides guidance to all stakeholders* (members, officers, proprietors, licence holders, employers, employees, statutory and voluntary agencies, partner agencies and members of the general public) on the range of options that are available to achieve compliance with legislation enforced by Cannock Chase District Council EHPP Service.

* The term 'stakeholder' is used in this document to refer to all persons or organisations who may be affected by, or have an interest in, this policy.

- 1.3 The policy covers all areas of the EHPP Service's work where enforcement of legislation may be involved, including:-
- Licensing (taxi / private hire, alcohol, street trading, scrap metal, gambling, animal activity etc.);
 - Private sector housing (regulation of private rented properties, including houses in multiple occupation, registered provider housing and mobile home/caravan sites);
 - Food hygiene in shops, restaurants, pubs, schools, and care homes;
 - Environmental protection (dog fouling, littering, fly tipping, land, air and noise pollution etc.);
 - Public health (filthy properties, accumulations of rubbish, pest infestations etc.);
 - Health and safety at work in a wide range of commercial workplaces;
 - Animal welfare;
 - Smoke-free laws.
- 1.4 The primary objective is to achieve regulatory compliance and we will seek to do this mainly through advice and education, though we will take formal enforcement action where this is necessary. There are a wide range of tools available, and this policy aims to ensure that a sanction that is appropriate and proportionate to the offence or contravention will be chosen.
- 1.5 This policy explains the objectives and methods for achieving compliance and the criteria considered when deciding what is the most appropriate response to a breach of legislation.

1.6 All decisions will have regard to current statutory guidance and codes of practice, particularly the [Regulators' Code](#) the [Code for Crown Prosecutors](#) and human rights legislation.

1.7 Stakeholders will be notified of this policy through the Council's website.

2.0 Legal Status of the Enforcement Policy

2.1 Cannock Chase District Council Cabinet approved this policy on [new date] and authorised amendments to be made by relevant Heads of Service (or equivalent) officers of Cannock Chase District Council.

2.2 This policy is intended to provide guidance for all stakeholders as identified in paragraph 1.2 above and does not provide a 'one size fits all' approach across the range of all our services. It does not affect or fetter the discretion of the Council, or its officers, to take legal proceedings, or any other course of action, where this is considered to be in the public interest.

3.0 Scope and Meaning of 'Enforcement'

3.1 This Policy applies to all legislation enforced by the EHPP Service.

3.2 'Enforcement' includes all actions taken by officers aimed at ensuring legal compliance. This is not limited to formal enforcement action such as prosecution but includes spoken and written requests to comply with legislation.

3.3 In certain circumstances we will seek to raise awareness and increase compliance levels by publicising the work of the service, unlawful trade practices or criminal activity. Where appropriate the results of specific enforcement outcomes may also be published including Court cases.

4.0 How to obtain a copy of the Policy or make Comments or Complaints

4.1 This policy is available on the Council's website at <https://www.cannockchasedc.gov.uk/residents/environmental-health/environmental-health-enforcement-policy>

If you would like a paper copy of the policy and/or you would like to comment on the policy, or if you have a complaint about the way in which the policy has been applied, please contact us at the following address:

Environmental Health & Public Protection Service,
Cannock Chase Council,
Civic Centre,
Beecroft Road,
Cannock,
Staffordshire
WS11 1BG.

Tel: 01543 462621

E-mail: environmentalhealth@cannockchasedc.gov.uk

5.0 General Principles

- 5.1 Our role involves actively working with individuals and businesses to advise on, and assist with, compliance. We will always use education and encouragement to achieve compliance where it is possible, and appropriate, to do so.
- 5.2 Where we do consider that formal action is necessary each case will be considered on its own merits. However, there are general principles that apply to the way each case must be approached. These are set out in this policy, and where applicable the [HSE Enforcement Policy](#) and in the [Regulators' Code](#).
- 5.3 Enforcement decisions will be fair, proportionate, transparent, independent, and objective and will not be influenced by factors such as ethnicity, nationality, gender, disability, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender.
- 5.4 Where the subject of the enforcement action is either a juvenile, or a person with special needs, a learning disability, or is otherwise vulnerable, contact will be made with, and advice sought from, appropriate agencies as necessary. For a first offence, an alternative sanction will usually be offered to juveniles.
- 5.5 Cannock Chase District Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- 5.6 This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.
- 5.7 We will have regard to the [Regulators' Code](#) and in particular we will:
- Ensure our enforcement is fair, transparent, consistent, proportionate and accountable
 - Carry out our regulatory activities in a way that supports those we regulate to comply and grow;
 - Provide simple and straightforward ways to engage with those we regulate;
 - Use our resources effectively, based on risk;
 - Share information with other regulators is an effective use of resources through a risk-based methodology
 - improves protection for the community and businesses
- 5.8 We will ensure that any decision to depart from the Regulators' Code, or this policy, will be properly reasoned, based on material evidence and documented.

6.0 Notifying Alleged Offenders

- 6.1 If we receive information that may lead to enforcement action against a business or individual, we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public (for example the need for immediate action to close a food business, or prevent the use of a dangerous process/piece of machinery).
- 6.2 In some cases, the Council may only notify offenders once the enforcement action has been considered by Legal Services and information laid at Court.
- 6.3 Confidentiality will be maintained and personal information about individuals will only be released to a court or other agency when required and/or in accordance with the Data Protection Act 2018.

7.0 Deciding what Level of Enforcement Action is Appropriate

A number of factors are considered when determining what enforcement action to take:

7.1 Levels of enforcement action:

7.1.1 There are a large number of potential enforcement options. The option chosen varies from no action through to proceedings in court.

Examples of the main types of action that may be considered

- No action;
- Informal action and advice (for example a written warning);
- Fixed penalty notice;
- Formal notices/orders;
- Forfeiture proceedings;
- Seizure of property;
- Compulsory closure;
- Rent repayment order applications
- Banning & Management order applications;
- Taking animals into the Council's possession;
- Rogue landlord database entry applications;
- Injunctive actions;
- Refusal/suspension/revocation of a licence;
- Simple caution;
- Prosecution;
- Civil penalty & penalty charge notices;
- Management & Compulsory Purchase Orders
- Proceeds of crime applications.

Note: Availability of the above options is determined by the legislation applicable and the particular circumstances of each case; not all options will be available on all occasions.

7.1.2 In assessing what enforcement action is necessary and proportionate, consideration will be given to:

- The seriousness of compliance failure;
- Past performance, compliance history and current practice;
- The risks being controlled;
- The level of culpability;
- The level of harm caused;
- Legal, official or professional guidance;
- Local priorities of the Council.

7.1.3 Where the law has been contravened, enforcement actions / options will normally be commenced at a low level and escalated until compliance is reached. Exceptions would be where there is a serious risk to public safety or the environment or the offences have been committed deliberately, repeatedly or negligently and/or involve deception.

7.1.4 The Council recognises that the EHPP Service also investigates and takes enforcement action in relation to offences that are not traditional regulatory offences, for example fly-tipping of waste, harassment of tenants or the neglect of pet animals. Due to the level of culpability, it is expected that in some of these cases the starting point will be prosecution.

7.2 No Action

7.2.1 In certain circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as may (*but not always*) be the case where a trader has ceased to trade. In such cases we will advise the offender of the reasons for taking no action.

7.3 Informal Action and Advice

7.3.1 For minor breaches of the law we may give verbal or written advice. We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable and take into account the seriousness of the contravention and the implications of the non-compliance.

Sometimes we will give recommendations or advice on 'good practice', but we will clearly distinguish between what must be done to comply with the law and what is advice only.

7.3.3 Failure to comply could result in an escalation of enforcement action.

7.4 Fixed Penalty Notices

7.4.1 Certain offences may be dealt with by Fixed Penalty Notices (FPN) where permitted in legislation. FPNs are recognised as a low-level enforcement tool and avoid a criminal record for the offender. Where legislation permits an offence to be dealt with by way of a FPN, for example littering, dog fouling, or smoking in a smoke free place, the starting point will normally be a FPN. Second and subsequent offences are unlikely to be dealt with by FPN and will normally result in prosecution.

7.5 Formal Notice

7.5.1 Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances demand. In other circumstances, the time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

7.5.2 In some cases, a charge will be made where a notice is served.

7.5.3 Where required, notices issued will include details of any applicable appeals procedures.

7.5.4 Some notices allow works to be carried out in default. This means that if a notice is not complied with [a breach of the notice] the Council may carry out any necessary works. Where the law allows, we may then recover our costs from the person/business served with the notice, through the Courts if necessary.

7.6 Seizure

7.6.1 Some legislation enables officers to seize property, including goods, equipment, and documents, for example unsafe food, dangerous equipment, equipment that is being used to cause a nuisance or vehicles used to commit waste offences.

7.7 Injunctive Actions

7.7.1 In certain circumstances, for example, where offenders are repeatedly found guilty of similar offences, or where it is considered that injunctive action is the most appropriate course of enforcement, then injunctive actions through the courts may be used to deal with repeat offenders or dangerous circumstances.

7.8 Refusal, Suspension and Revocation of Licences

7.8.1 Hackney Carriage and Private Hire Drivers' Licences
The grounds for refusing to issue, renew, or for suspending or revoking a licence, are based on whether the driver has: -

- been convicted of an offence involving dishonesty, indecency or violence;
- been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976;
- failed to comply with a requirement of the Local Government (Miscellaneous Provisions) Act 1976, or
- any other reasonable cause.

In line with the Council's Hackney Carriage and Private Hire Driver, Vehicle and Operator Licensing Policy, where a hackney carriage/private hire drivers' licence is refused, revoked or suspended, the driver's details will be recorded on the National Register of Refusals and Revocations (NR3), which is hosted by the National Anti-Fraud Network (NAFN).

7.8.2 Under the Licensing Act 2003 and Gambling Act 2005, where a review of a premises licence is sought, the options available to the the Licensing Committee are: - To modify the conditions of licence;

- To exclude a Licensable activity from the scope of the licence;
- To remove the designated premises supervisor;
- Suspend the licence for a period not exceeding three months
- Revoke the licence;
- Issue a warning letter;

No action. in accordance with the Council's Licensing Act 2003 [Statement of Licensing Policy](#).

7.8.3 Licences issued under the Housing Act 2004 or other housing related legislation will be dealt with in accordance with the Housing Standards Enforcement Policy 2023, which forms an appendix to this Policy.

7.8.4 Under the Gambling Act 2005, where a review of a premises licence is sought, the options available to the Committee are:-

- Revocation of the licence;
- Suspend the licence for a specified period not exceeding three months;
- Exclude a condition attached to the licence, or remove or amend an exclusion;
- Add, remove or amend a condition;
- Issue a warning letter;
- No action.

7.9 Simple Caution

7.9.1 A Simple Caution is a means by which the Council deals quickly and simply with less serious offences, both reducing burdens on the court system and reducing the chance of repeat offences. A simple caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction, though a record may be made of the caution.

7.9.2 For a Simple Caution to be issued a number of criteria must be satisfied: -

- Sufficient evidence must be available to prove the case;
- The offender must admit the offence;
- It must be in the public interest to use a simple caution;
- The offender must be 18 years or over.

Ministry of Justice Guidance on simple cautions is accessible by visiting: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/708595/cautions-guidance-2015.pdf

7.9.3 We will also take into account the following when making our decision: -

- The offender should not have received a simple caution for a similar offence within the last 3 years.

7.9.4 The final decision on whether or not to issue a simple caution will be made by the Head of Service , or other suitably authorised officer, after receiving appropriate legal advice.

7.9.5 A record of the caution will be kept on file for three years. If the offender commits a further offence, the caution may influence a decision to take a prosecution. If, during the time the caution is in force, the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

7.10 Prosecution

7.10.1 The Council will consider all relevant circumstances, , having regard to the public interest criteria, which may include:

- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the suspect;
- there has been a reckless disregard of regulatory requirements;
- there have been repeated breaches giving rise to significant risk, or persistent and significant poor compliance;
- the level of culpability of the suspect and the level of harm caused by the offence;
- there has been a failure to honour voluntary undertakings or comply with statutory notices;
- there has been a repetition of a breach that was subject to a simple caution;
- false information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to significant risk;
- officers have been intentionally obstructed in the lawful execution of their duties.

This is not an exhaustive list. Where we consider that formal enforcement action is necessary each case will be considered on its own merits.

- 7.11 Certain Housing related offences may be dealt with via Civil Penalty Notices, **Management and Rent Repayment Orders**, Banning Orders and Rogue Landlord Database entries. These are discussed further in the Private Sector Housing Enforcement Policy 2023.

8.0 Determining whether a Prosecution or Simple Caution is Appropriate and Proportionate

- 8.1 We apply the 'Full Code Test' to determine whether a prosecution or caution is appropriate and proportionate. This Test, described in the [Code for Crown Prosecutors](#) (2018), consists of two stages: (i) the evidential stage; followed by (ii) the public interest stage.
- 8.2 A caution or prosecution proceedings will only be progressed when the case has passed both the evidential test and the public interest test.
- 8.3 Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.
- 8.4 In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases, the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.

9.0 Who decides what Enforcement Action is Taken

- 9.1 Decisions about the most appropriate enforcement action to be taken are based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by the Council and/or central government.
- 9.2 In the majority of cases, the lead case officer will recommend the most appropriate enforcement action for consideration and approval by the relevant authorised officer.
- 9.3 Final decisions (excluding items mentioned in 9.4) about the instigation of legal proceedings will involve consultation between and / or approval from:
- Investigating officers(s);
 - Officer in charge of the case;

- Head of Service
- Service Manager;
- Council Solicitors.

9.4 Any decision to prosecute will be documented and signed off by at least two officers.

9.5 Where enforcement decisions relate to licensing matters, these will be taken under delegated authority by officers or by a Licensing Committee.

10.0 Liaison with other Regulatory Bodies and Enforcement Agencies

10.1 Where appropriate, enforcement activities within the EHPP Service will be coordinated with those of other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.

10.2 Where an enforcement matter affects a wide geographical area beyond the Council's boundaries or involves enforcement by one or more other local authorities or organisations all relevant parties will, where appropriate, be informed of the matter as soon as practicable and all enforcement activity coordinated with them.

10.3 The EHPP Service will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including:

- Government agencies (for example, HSE, Environment Agency, Border Agency, HMRC, DWP);
- Police forces;
- Fire and rescue authorities;
- Statutory undertakers;
- Other local authorities and public health agencies;

10.4 Convictions secured by the Council for recordable offences will be entered onto the Police National Computer (PNC) either automatically or via form NPA03. A recordable offence is one that is imprisonable and includes a wide range of offences that are dealt with by the EHPP Service. Details of such convictions are therefore shared with police forces across the UK and other organisations that have access to the PNC, and will be disclosed on Disclosure and Barring Service checks in accordance with the relevant Regulations.

11.0 Considering the views of those affected by offences

11.1 The EHPP Service undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be taken into account when making an enforcement decision.

11.2 The Council may, where appropriate, prepare a [community impact statement](#) for the court as part of a prosecution. The purpose of a community impact statement is to make the court aware of particular crime trends in the local area and the impact of these on the local community.

12.0 Protection of Human Rights

12.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the following:

- Right to a fair trial;
- Right to respect for private and family life, home and correspondence.

13.0 Review of the Enforcement Policy

This Policy will be reviewed every five years or following significant changes to relevant legislation or government guidance.

Signed:

.....

Head of Regulatory Services



Environmental Health & Public Protection Service Housing Standards Enforcement Policy 2023

1 Introduction

- 1.1 Cannock Chase Council are committed to ensuring our residents live in safe homes. Through fair and effective enforcement, we aim to protect both the health and safety and interests of tenants, landlords, the wider public and businesses. At the time of writing, the Council estimates its private rented sector accounts for 15.8% of housing in the District.
- 1.2 The main objective of enforcement action is to ensure that non-compliance with relevant housing requirements in the local housing market is addressed in the most effective way to ensure that compliance delivers a better, safer private rented housing sector. This document sets out the enforcement policy for the Council's Private Sector Housing function, which is part of the wider Environmental Health and Public Protection (EHPP) service. This policy is to be read in conjunction with the EHPP Enforcement Policy 2023 which is the principal policy.
- 1.3 The content of this Enforcement Policy has also been written having regard to current statutory guidance and codes of practice, particularly the [Regulators' Code](#) the [Code for Crown Prosecutors](#). For more detail on this please see the Environmental Health Enforcement Policy 2023. Enforcing officers will have regard to this policy when making enforcement decisions.

2 Purpose of Enforcement

- 2.1 The Council expects full voluntary compliance with housing law. We will help owners and landlords meet their legal obligations by providing clear and concise information about what they need to do to comply. However, we will not hesitate to use our enforcement powers where necessary. Formal action will be taken, including prosecution, where appropriate having regard to the individual circumstances of each case and the risks presented.

3 Methods of Enforcement

- 3.1 Enforcement includes any action aimed at ensuring compliance with housing law. The range of actions that will be considered include:
- 3.2 **Informal Action** – will be considered where one or more of the following circumstances apply:
 - a) there is no legislative requirement to serve formal notice or an order and the circumstances are not serious enough to warrant formal action;
 - b) past history suggests informal action will achieve compliance;
 - c) there is confidence in the management or the individual in control;

- d) the consequences of non-compliance will not pose a significant risk to occupiers or others.
- e) owner/occupier requests informal action only (subject to risk)

3.3 Serve a Statutory Notice / Order – This will be considered where it is appropriate and where there is evidence to justify the issuing of a notice or order.

In relation to disrepair or health and safety risk cases, service of statutory notices/orders will be based on the hazards found and how serious they are deemed to be. This is primarily assessed using the Housing Health Safety Rating System. The Council has a legal duty to take the most appropriate course of action available in relation to category 1 hazards. This is where the risk to health and/or safety is high.

There is a power for the Council to deal with category 2 hazards. The Council will take statutory action in respect of category 2 hazards where there is a significant threat to health, safety or wellbeing. The Council will not be restricted in serving notices for Category 2 hazards if justified.

Notices/Orders will include reasonable time limits having regard to the seriousness of the defects and/or contraventions.. All appropriate persons will be notified of the formal action, e.g. tenants, mortgagees etc.

Charging for Enforcement - If there is a statutory charging mechanism the Council will seek to recover the full costs of providing its services wherever that is possible in accordance with guidance provided by Government and its policies.

Charges are made for the serving of formal notices under the Housing Act 2004. If properties are rented in a condition that requires statutory intervention the Council will endeavour to recover the costs incurred.

3.4 The types of notice/order that can be issued by the Council under the Housing Act 2004 include;

- Hazard Awareness Notice – notice advising the person on whom it is served of category 1 and/or category 2 hazard(s) at the property.
- Improvement Notice – notice requiring the person on whom it is served to take the remedial action specified in the notice in relation to the hazards found.
- Prohibition Order – an order imposing restriction on the use of the whole or part of the property and/or who can use the property.
- Emergency Prohibition Order – same as a prohibition order but the order will take effect immediately.
- Emergency Remedial Action – see 3.5 below

Other legislation is available to the Council, for example the Environmental Protection Act 1990 which allows to the service of an Abatement Notice. Regardless of the legislation used, the principles of this policy will be followed.

3.5 Emergency Remedial Action – this will be considered where there is an imminent risk of serious harm. The Private Sector Housing Team will take the action necessary to mitigate and/or remove this risk and formal action will be

taken by the Private Sector Housing Team to recover the full costs incurred. In circumstances where there is non-compliance with statutory provisions the Council has powers to take further actions to both ensure that housing conditions are improved and to take other actions to act as a deterrent for further failures to comply.

- 3.6 **Suspend, revoke or refuse to renew or grant a licence or authorisation** – e.g. under the Licensing of Houses in Multiple Occupation (HMO) provisions. This will be considered where licensing conditions are not being met.

Prospective applicants for a licence will be vetted to determine whether they are a 'Fit and Proper' person to hold a licence for HMO licence and inclusion on the mobile home sites fit and proper person register. Where a person is found not to be a 'Fit and Proper' person to hold a licence, this information will be stored within the Council's records and shared as necessary with other Departments and other Local Housing Authorities. The Council may reduce HMO licence periods if they deem it appropriate.

- 3.7 **Simple Caution** – used to deal quickly and simply with less serious offences and to divert these away from the courts. There must be sufficient evidence of guilt to give a realistic prospect of conviction and the offender must formally admit to the offence. Simple cautions will be issued in accordance with the [Ministry of Justice – Simple Cautions for Adult Offenders \(April 2015\)](#) in consultation with the Council's Legal Services.

Other forms of caution may be used when introduced or Simple Cautions are no longer available.

- 3.8 **Civil Penalty Notices** - Section 249A of the Housing Act 2004 introduced the option to impose a civil penalty, as alternative to prosecution, on a person if satisfied, beyond reasonable doubt, that the person's conduct amounts to a relevant housing offence. The burden of proof needed to issue a civil penalty is the same as is necessary for a prosecution. The Housing Standards Team will complete a case file where civil penalties are being recommended which will follow the same final approval process as other legal proceedings.

The decision as to whether a prosecution is taken rather than issuing a civil penalty depends on factors such as the seriousness of the offence, historical offences, culpability, likelihood of continuing, repeated or escalating offences taking place, vulnerability of the tenant and the potential impact to the wider community.

The maximum charge per offence is £30,000, but the level of charge in the civil penalty notice will be determined by reference to the Council's Housing Civil Penalty Policy and charging matrix (Appendix 1). A decision by the Head of Service, or other suitably authorised officer, after receiving appropriate legal advice, is necessary to determine the most appropriate course of action.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 also allow a financial penalty not exceeding £30,000 to be imposed. In determining the Civil Penalty amount, the Council will have regard to the statutory guidance issued under schedule 9 of the Housing and Planning Act 2016 and the developed Penalty Matrix (Appendix 2).

3.9 **Banning Orders and Rogue Landlord Database for Housing Offences**

The Council may seek banning orders where landlords or property agents have been convicted of a banning order offence. Where a breach of a banning order occurs, the Council may seek to issue a civil penalty - the amount would be no less than £10,000 to reflect the seriousness of the offender having received a banning order in the first place and be reserved for the worst offenders.

The Council must make an entry on the national Rogue Landlord Database where a banning order has been issued and must revoke any licence held by a person subject to such as order or reduce their licence term as they see fit.

3.10 **Civil Sanctions/remedies** – The Council may decide to use a civil sanctions or remedies in conjunction with or instead of the principal legislation it enforces. This may be considered where persons/businesses have saved costs or gained an unfair advantage through non-compliance with the law. It may also be where injunctive applications through the civil court are required such as in illegal eviction or harassment cases.

3.11 **Penalty Charge Notices** - Under various legislation the Council enforces, such as The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 there is the ability to issue penalty charge notices to address non-compliance. Cannock Chase Council's Statement of Principles 2023 (contained in Appendix 3) will take effect and deal with breaches of these Regulations including the issuing of penalty charge notices of up to £5000.

3.12 **Prosecution** - this may be considered for more serious offences. It aims to punish wrong doing, to avoid a reoccurrence of the offence and to act as a deterrent to others.

The factors outlined in the Environmental Health Enforcement Policy 2023 will be considered in deciding whether or not to prosecute and those that apply will depend on the circumstances of each case. The Council will decide how important each factor is in the circumstances of each case and go on to make an overall assessment together with a decision to instigate legal proceedings.

3.13 **Rent Repayment Orders** - If a landlord has been convicted of an offence under The Housing Act 2004 for failing to comply with an improvement notice, failing to comply with a prohibition order, being in control or managing an unlicensed HMO or house the Council has a duty to consider an application to the First Tier Tribunal for a rent repayment order. This is also applicable for convictions under Section 6(1) of The Criminal Law Act 1971 concerning violence for securing entry, section 1(2), (3) or (3A) of The Protection from Eviction Act 1977 concerning eviction or harassment of occupiers and section 21 of The Housing and Planning Act 2016 concerning a breach of a banning order.

Where the Council is satisfied beyond reasonable doubt that a relevant housing offence has been committed, they may consider an application to the First Tier Tribunal for a rent repayment order irrespective of whether landlord has been convicted of an offence. In either case a notice of intended proceedings will be sent to the relevant party with the required information and details of the right to make representations. The Council may seek an order (as an alternative or in addition to other enforcements options) where the perpetrator has obtained

significant income whilst breaking the law or operating illegally or unsafely. The Council may also seek an order where a rent repayment order is likely to be more punitive than other actions and will be decided on a case by case basis.

The Council, where it has evidence which may support tenant applications for their own Rent Repayment Orders, disclose allowable information to support applications. This support will only extend to the provision of information, Council officer will not attend hearings on a tenant's behalf.

- 3.14 **Works in Default** - This may be considered (where allowed by the governing legislation) as an alternative to, or in addition to the issuing of, a Penalty Charge Notice, Civil Penalty or prosecution. The Council will carry out the works in default and seek to recover the full and associated costs, where necessary through the Courts. The Council may also require a private tenant to pay rent direct to the Council instead of their landlord where the Council is recovering costs incurred in undertaking work in default.

This will include where applicable, administration costs and officer time. The Financial Rules and Financial Operating Procedures of the Council will be fully adhered to. Where appropriate the costs will be placed against the property as a charge. The Council may seek to use its powers to enforce the sale of the property to recover the costs.

- 3.15 **Management & Compulsory Purchase Orders** - The Council may choose to make Management Order applications including interim/final management orders and empty dwelling management orders where the circumstances and risk warrants this action. It will generally seek to make them as a last resort where other options to obtain compliance or safeguard the public have been tried and have failed.

The Council have the power to make an Interim Management Order (IMO) in respect of residential property. A LA can exercise this power where a landlord (or their managing agent) fails to obtain a licence or where it is necessary due to the hazardous condition of the property. Upon the expiry of an IMO a LA can make an application to the First Tier Tribunal to make a Final Management Order and take over the management of the property for a period of up to five years. This removes a landlord's ability to manage the property and can also have a significant financial impact on its operation.

The Council can also apply for Empty Dwelling Management Orders (EDMOs) for problematic empty properties. These will be approved on a case-by-case basis by a Head of Service or equivalent and may be considered along with other options such as compulsory purchase.

4 Proceeds of Crime

- 4.1 The Proceeds of Crime Act 2002 allows the courts to deprive perpetrators of criminal offences of any proceeds they have accrued as a result of their criminal activity. The District Council will use this legislation where appropriate and in consultation with Legal Services.

5. Delegation & Decision Making

- 5.1 Decisions about the most appropriate enforcement action to be taken will be made in-line with this policy and based on professional judgement, legal guidelines and advice, statutory codes of practice and priorities set by the Council and/or Central Government.
- 5.2 The relevant Head of Service has delegated authority, in accordance with the Scheme of Delegation in the Council's constitution, to take the steps necessary to enforce all legislation which falls under their remit.
- 5.3 A decision to issue a Civil Penalty or instigate a prosecution will be taken by the appropriate Manager (as delegated by Cabinet and the relevant Head of Service) in consultation with the Council's Legal Services

6. Costs of Enforcement

- 6.1 The Council is able in certain circumstances to charge for enforcement action, e.g. the service of an improvement notice. What can be charged for will depend on the type of action taken. Examples include costs associated with determining whether to serve a notice, costs involved in identifying any action required and costs associated with serving a notice. When costs are to be charged an invoice will be sent to the relevant party outlining the amount to be paid, what it covers and the payment terms. The charge levied will only cover the cost of the enforcement action to the authority.
- 6.2 This is a separate payment and is not the same as a civil penalty which is issued as an enforcement mechanism to address non-compliance.
- 6.3 The Council will seek to issue enforcement charges in all cases where it is legally entitled to recover the costs unless there are exceptional circumstances.

7. Appeals

- 7.1 Any person served with a notice/order has the right to appeal on any grounds set out in the legislation. The main reasons for appeal are likely to be the contents of the notice/order and the schedule of work. Appeals can also be made on the grounds that the notice/order was not served on the correct person, or that a different course of action would be more appropriate.
- 7.2 Appeals regarding enforcement action under The Housing Act 2004 are made to the relevant First Tier Tribunal (Property Chamber). Further details on this process are contained in the relevant notice/order.
- 7.3 All other appeals regarding enforcement action taken should be directed either to the Magistrates' Court or as directed on the notice/order served.
- 7.4 The Council will rigorously defend any appeals where the notice/order has been correctly served.

8. How to obtain a copy of the Policy or make Comments or Complaints

- 8.1 This policy is available on the Council's website at www.cannockchasedc.gov.uk/residents/environmental-health/environmental-health-enforcement-policy

If you would like a paper copy of the policy and/or would like to comment on the policy, or if you have a complaint about the way in which the policy has been applied, please contact us at the following address:

Environmental Health & Public Protection Service,
 Cannock Chase Council,
 Civic Centre,
 Beecroft Road,
 Cannock,
 Staffordshire
 WS11 1BG.

Tel: 01543 462621

E-mail: environmentalhealth@cannockchasedc.gov.uk

9. Public Registers

9.1 Public Registers of licensed HMOs, dwellings with interim/final/empty dwelling management orders, mobile home fit and proper persons and HMOs with temporary exemption Notices in force will be available upon request in line with the requirements of the legislation and guidance. Copies may be requested by email to privatesectorhousing@cannockchasedc.gov.uk

9.2 If a copy of the register, in full or part is requested by a member of the public, this may be subject to a reasonable fee to cover administration costs.

10. Review & Version Control

10.1 This Enforcement Policy will be subject to review in line with the wider Environmental Health Enforcement Policy and amended to reflect any change in legislation, corporate policy or official guidance. Minor amendments and revisions can be authorised by Head of Service level or equivalent.

Version Table:

Edition Title	New or revision number	Author	Date
Private Sector Housing Enforcement Policy 2023	New	Jennifer Sheffield / David Prosser-Davies	April 2023

Related Documents:

Environmental Health and Public Protection Service Enforcement Policy 2023

[Private Sector Housing Strategy 2022-27](#)

**Housing Act 2004 Section 249a
Housing Civil Penalty Policy**

1. Introduction

- 1.1 The Housing Act 2004 was amended by the Housing and Planning Act 2016 to allow local authorities to impose a financial penalty as an alternative to prosecution for certain housing offences.
- 1.2 The list of offences under this law that that may be dealt with by way of a financial penalty are as follows:
- Failure to comply with improvement notice (Section 30)
 - Licensing of HMOs under Housing Act 2004 Part 2 (Section 72)
 - Licensing of houses under Housing Act 2004 Part 3, (Section 95)
 - Failure to comply with overcrowding notice, (Section 139(7))
 - Management regulations in respect of HMOs. (Section 234)

2. Financial Penalties

- 2.1 The law allows a maximum financial penalty of £30,000 to be imposed per offence.
- 2.2 In determining whether to impose a financial penalty the Council will have regard to any relevant local enforcement policy and any relevant governmental guidance. The factors set out in 3.5 of the Government Guidance on Civil penalties under the Housing and Planning Act 2016 has been incorporated into the charging table adjustments set out in Appendix 1.
- 2.3 In determining the financial value of an imposed penalty, this Council shall have regard to the charging table and guidance notes in Appendix 1.

3. Process for imposing penalty charges

- 3.1 Where it has been determined that a financial penalty may be appropriate to impose as an alternative to prosecution, the Council will use the following process.
- 3.2 A “Notice of Intent” shall be served on the person suspected of committing the offence. The Notice shall specify:
- a. The amount of any proposed financial penalty
 - b. The reasons for proposing the financial penalty
 - c. Information about the right to make representation to the Council.
- 3.3 The person to which the notice relates will be given 28 days to make written representation to the Council about the proposal to impose a financial penalty. The representation may be via any legible written format, but to aid respondents, a form will be included with the Notice of Intent.
- 3.4 Following the 28-day period the Council will decide:
- a. Whether to impose a financial penalty on the person, and
 - b. The value of any such penalty imposed.

- 3.5 If the Council decides to impose a financial penalty, a final notice shall be issued imposing that penalty. The final notice will specify:
- a. the amount of the financial penalty,
 - b. the reasons for imposing the penalty,
 - c. information about how to pay the penalty,
 - d. the period for payment of the penalty,
 - e. information about rights of appeal to the First tier Tribunal
 - f. the consequences of failure to comply with the notice.

4. Consequences of non-compliance and miscellaneous provisions

- 4.1 If, after any appeal has been finally determined or withdrawn, a person receiving a financial penalty does not pay all or part of the penalty charge, the Council will recover the penalty by order from a County Court. Where appropriate, the Council will also seek to recover the costs incurred in taking this action from the person to which the financial penalty relates.
- 4.2 Financial Penalties are an alternative to criminal proceedings and as such if a penalty is imposed, no criminal proceedings can be initiated for the same offence.
- 4.3 The Council may, at any time:
- a. Withdraw a notice of intent or final notice
 - b. reduce the amount specified in a notice of intent or final notice

Where the Council decides to take either action, it will write to the person to whom the notice was given.

- 4.4 Where a person has received two financial penalties under this legislation in any 12 month period, irrespective of the locality to which the offences were committed, the Council will consider making an entry on the national database of rogue landlords and property agents. When considering making an entry, the Council will have regard to any guidance issued by the Secretary of State.

Appendix 1

Charging tables for determining value of Financial Penalties

The following tables present the starting values, aggravating and mitigating factors that are to be considered in determining the value of a financial penalty issued for the following offences:

- Failure to comply with an Improvement Notice (Page 4)
- Failure to licence houses under Housing Act 2004 Part 2 or Part 3 (Page 5)
- Failure to comply with licence conditions under Housing Act 2004 Part 2 or Part 3, (Page 6)
- Failure to comply with an overcrowding notice, (Page 7)
- Failure to comply with management regulations in respect of HMOs. (Page 8)

General principles (to be applied to all financial penalties made for offences under Housing Act 2004)
No penalty charge shall be issued above the statutory maximum of £30,000
No penalty charge shall be less than 20% of the starting value after all aggravating and mitigating factors are considered and after perpetrator income has been taken into account.
Mitigating factors will be considered based on evidence submitted by the landlord or their agent to the Private Sector Housing Team including any information provided following inspection and any representations that the landlord provides following service of a Notice of Intent to issue a Financial Penalty
In recovering the value of any financial penalty, The Council will consider the incomes, savings and assets of the perpetrator and where appropriate a payment plan considered.

Failure to comply with an Improvement Notice (Housing Act 2004 Section 30)	
Starting value of penalty charge (note 1)	£
1 st offence	6000
2nd subsequent offence by same person/company	15000
Subsequent offences by same person/company	24000
Aggravating Factors (note 2)	
Acts or omissions demonstrating high culpability. (note 4)	3000
Large housing portfolio (note 5)	3000
Multiple Category 1 or high Category 2 Hazards (note 6)	3000
Vulnerable occupant and/or significant harm occurred as result of housing conditions (note 7)	3000
Mitigating Factors (note 3)	
Evidence of Low culpability (note 11)	-3000
Rapid action taken to address failings (note 12)	-3000

Offences relating to the licensing of HMOs under Part 2 of the Act (Section 72(1) and 72(2))	
Offences relating to failure to licence within a Selective Licensing Area defined by Part 3 of the Act Section 95(1))	
Starting value of penalty charge (note 1)	£
1 st offence	6000
2nd subsequent offence by same person/company	15000
Subsequent offences by same person/company	24000
Aggravating Factors (use all that apply) (note 2)	
Acts or omissions demonstrating high culpability (note 4)	3000
Large housing portfolio (note 5)	3000
Evidence of management failings leading to antisocial behaviour affecting residents of wider neighbourhood of property. (note 8)	3000
Property not licenced for 12 months or longer. (note 9)	3000
Mitigating Factors (use all that apply) (note 3)	
Evidence of Low culpability (note 11)	-3000
Rapid action taken to address failings (note 12)	-3000

Offences relating to failure to comply with conditions, restrictions or obligations provided by licences issued under Part 2 and Part 3 of the Act (Section 72(3)) and Section 95(2)) (Note 10)		
Starting value of penalty charge (note 1)	Tier 1 (£)	Tier 2 (£)
1 st offence	6000	1200
2nd subsequent offence by same person/company	15000	3000
Subsequent offences by same person/company	24000	4800
Aggravating Factors (use all that apply) (note 2)		
Acts or omissions demonstrating high culpability (note 4)	3000	600
Large housing portfolio (note 5)	3000	600
Evidence of failure to comply with three or more licence conditions (note 6)	3000	
Vulnerable occupant and/or significant harm occurred as result of housing conditions (note 7)	3000	600
Mitigating Factors (use all that apply) (note 3)		
Evidence of Low culpability (note 11)	-3000	-600
Rapid action taken to address failings (note 12)	-3000	-600

Offences of contravention of an overcrowding notice (section 139) (note 1)	
Starting value of penalty charge (note 1)	£
1st relevant offences	6000
2nd subsequent offence by same person/company	15000
Subsequent offences by same person/company	24000
Aggravating Factors (use all that apply) (note 2)	
Acts or omissions demonstrating high culpability (note 4)	3000
Vulnerable occupant and/or significant harm occurred as result of overcrowding. (note 6)	3000
Mitigating Factors (use all that apply) (note 3)	
Evidence of Low culpability (note 11)	-3000
Rapid action taken to address failings (note 12)	-3000

Failure to comply with management regulations in respect of HMOs (Section 234) (Note 10)		
Starting value of penalty charge (note 1)	Tier 1 (£)	Tier 2 (£)
1st relevant offences	6000	1200
2nd subsequent offence by same person/company	15000	3000
Subsequent offences by same person/company	24000	4800
Aggravating Factors (use all that apply) (note 2)		
Evidence of failure to comply with three or more regulations within this statute. (note 6)	3000	
Acts or omissions demonstrating high culpability (note 4)	3000	600
Large housing portfolio (note 5)	3000	600
Vulnerable occupant and/or significant harm occurred as result of failure to comply with regulations (note 7)	3000	600
Mitigating Factors (use all that apply) (note 3)		
Evidence of Low culpability (note 11)	-3000	-600
Rapid action take to remedy failings (note 12)	-3000	-600

Notes to accompany charging table

Notes 1-3 set out the overall process for determining the value of a given financial penalty. Notes 4-12 give detail on specific other issues.

Note 1 Determining the starting value of a financial penalty.

The starting point for a financial penalty is based on the number of:

- Previous convictions, and
- Final Notices of a Financial Penalty as per Housing Act 2004 schedule 13a issued to the same person or corporate entity for the same type of offence in the previous four years.

The Council will take into account any such convictions or financial penalties irrespective of the locality to which the offence relates.

Note 2 Aggravating factors.

After the starting point as per note 1 has been determined any relevant aggravating factors are considered and where appropriate to do so, the given value is added to the starting point to provide the maximum level of financial penalty.

At this stage it is possible for the notional penalty to be above the statutory maximum, but once mitigation and income are considered, if the value is still above the statutory maximum it will be capped as per the “general principles”.

Note 3 Mitigating factors.

After aggravating factors are considered and applied where appropriate, mitigating factors are considered and where there is sufficient and compelling evidence the relevant value will be discounted from the Financial Penalty.

In considering whether it is appropriate to include a mitigating factor, evidence shall be considered that has been gathered by the inspecting officer in the course of the investigation into the offence as well as any representations that have been provided following a Notice of Intent as per Housing Act 2004 Schedule 13a.

Note 4 Acts or omissions demonstrating high culpability.

This premium will be applied where, the person to which the financial penalty applies, acted in a reckless or deliberate manner in not complying with the statutory notice or previous relevant formal advice.

Note 5 Large housing portfolio.

The premium is applied where the perpetrator has control or manages of 10 or more units of accommodation.

For the purposes of this premium, the definition of a person having control and person managing are as defined by Housing Act 2004 Section 263.

Note 6 Multiple failings

This factor is to recognise multiple failings within the same legal notice, licence condition or piece of law. The following note details how this is determined

Multiple Category 1 or high Category 2 Hazards

To be included where an Improvement Notice relates to three or more Category 1 or high scoring Category 2 hazards associated with different building deficiencies. For the avoidance of doubt this means that where two hazards are present but relate to the same property defect, they are counted as one hazard for purposes of this calculation.

For the purpose of this factor, a high scoring category 2 hazard is defined as one scored following the Housing Health and Safety Rating System as “D” or “E”.

Evidence of failure to comply with three or more licence conditions.

To be included where there is evidence of failure to comply with three or more separate licence conditions issued with a licence under Housing Act 2004 Parts 2 or 3 irrespective of whether they are defined as “Tier 1” or “Tier 2”.

Evidence of failure to comply with three or more regulations within this statute. To be included where there is evidence of a failure to comply with three or more regulations, irrespective of whether they are defined as “Tier 1” or “Tier 2”.

For the avoidance of doubt, multiple failures of the same offence do not apply, it is based on evidence of failure of duties under separate provisions within the regulations.

Note 7 Vulnerable persons

This note applies to the following aggravating factors:

- Vulnerable occupant and/or significant harm occurred as result of housing conditions.
- Vulnerable occupant and/or significant harm occurred as result of failure to comply with regulations.
- Vulnerable occupant and/or significant harm occurred as result of overcrowding.

This factor will be applied if either the property is occupied by a vulnerable person or if significant harm has occurred as a result of the housing conditions to which the perpetrator ought to have had regard.

For offences relating to failure to comply with an Improvement notice, a vulnerable person for a particular hazard is defined as someone who forms part of a vulnerable group. This is detailed under [Housing Act 2004 Section 9 Operating Guidance for the Housing Health and Safety Rating System](#). A summary table is below.

Hazard	Vulnerable age group (age of occupant)
Damp and mould growth	14 and under
Excess Cold	65 or over
Excess Heat	65 or over
Carbon Monoxide	65 or over
Lead	under 3 years
Personal Hygiene, Sanitation and Drainage	under 5 years
Falls associated with baths etc.	60 or over
Falling on level surfaces etc.	60 or over
Falling on stairs etc.	60 or over
falling between levels	under 5 years
Electrical hazards	under 5 years
Fire	60 or over
Flames, hot surfaces etc.	under 5 years
Collision and entrapment	under 5 years
Collision and entrapment - low headroom	16 or over
Position and operability of amenities etc.	60 or over

For all other purposes a vulnerable person is defined as:

A person who suffers, or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering due to age, disability or severe financial insecurity”

This factor applies where an occupant is vulnerable and, due to the underlying failure to comply with the relevant legislation is placed at additional risk or harm compared with a non-vulnerable resident.

For purposes of this factor, significant harm is defined as physical or mental illness or injury that corresponds to one of the four classes of harm as recorded in [Housing Act 2004 Section 9 Operating Guidance for the Housing Health and Safety Rating System](#).

Note 8 Evidence of management failings leading to antisocial behaviour affecting residents of wider neighbourhood of property

This factor will be applied where there is evidence that, in addition to the underlying failure to licence under Part 2 or Part 3 of the Act, that there is compelling evidence to indicate that during the period that the property was not licenced when it should have been the perpetrator failed to take adequate steps to manage the relevant property in such a way as to mitigate antisocial behaviour stemming from residents or from the property as a whole.

Without prejudice to the generality of this point this includes:

- Direct antisocial behaviour stemming from the actions of residents of the relevant property affecting the local neighbourhood.
- Indirect nuisance on neighbouring properties caused by inaction to address the condition of the property such as rubbish in gardens or overgrown vegetation.

Note 9 Property not licensed for 12 months or longer

This factor will be applied where there is evidence that the relevant property has been operating as either of the following for 12 months or more prior to the offence date by the same person or corporate entity but without a licence application being properly submitted.

- A property requiring a licence under Housing Act 2004 Part 2
- A property within an area of selective licensing under Housing Act 2004 Part 3

Note 10 Tier 1 and Tier 2 Offences

Where the relevant offence lists separate penalty values for Tier 1 and Tier 2 offences, further detail is provided in the tables below.

The Management of Houses in Multiple Occupation (England) Regulations 2006	Offence Tier
3.Duty of manager to provide information to occupier	Tier 2
4.Duty of manager to take safety measures	Tier 1
5.Duty of manager to maintain water supply and drainage	Tier 1
6.Duty of manager to supply and maintain gas and electricity	Tier 1
7.Duty of manager to maintain common parts, fixtures, fittings and appliances	Tier 1
8.Duty of manager to maintain living accommodation	Tier 1
9.Duty to provide waste disposal facilities	Tier 2
10.Duties of occupiers of HMOs	Tier 2

Licence Conditions (Housing Act 2004 Part 2)	Offence Tier
Conditions relating to:	
Managing Antisocial Behaviour.	Tier 1
Compliance with statutory duties.	Tier 1
Reporting changes in circumstances relating to ownership / usage / layout / no. of occupants.	Tier 1
Safety of electrical appliances or installation.	Tier 1
Provision of Carbon Monoxide alarms where required.	Tier 1
Requirement for remedial works to be completed within specified timescale.	Tier 1
Room size requirements.	Tier 1
Other - Safety/Nuisance to residents or others.	Tier 1
Provision of information/documents on demand to the Council.	Tier 2
Providing required information to tenants.	Tier 2
Other – non-safety/information/documentation	Tier 2

Note 11 Low culpability

This factor will apply where the perpetrator provides sufficient evidence that they only marginally fell short of their legal obligations, for instance:

- significant efforts were made to address the risk, breaches or offences, although they were inadequate to mitigate the underlying cause to issue the penalty;
- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.
- Failings were minor and occurred as an isolated incident.

It will not be sufficient to claim not to have known of the legal requirement or deficiency that forms the underlying reason for the financial penalty in order to benefit from this factor.

It will also not apply where the underlying failure was due to the inaction of the perpetrator in properly managing rented properties, responding to complaints of poor standards, carrying out routine visits, instruct others to assist where necessary etc.

Note 12 Rapid action take to remedy failings.

This factor will apply where, on notification of the offence, the perpetrator took rapid action to remedy the underlying failings which could mean:

- Undertaking remedial works to address the deficiencies noted
- Making a full and complete licence application for the relevant property

In order to benefit from this factor, it is the responsibility of the perpetrator to provide sufficient evidence of compliance. It will not be sufficient to simply claim works have been completed, but photographs, videos, arrangements with Private Sector Housing officers to visit are all appropriate measures to demonstrate compliance.

In assessing whether “rapid action” was taken, Cannock Chase Council will take into account the extent of the remedial works or actions required and the time taken from receipt of any requirement to action. This could be evidence of quotes for works, agreed start dates from contractors etc.



The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

Penalty Matrix

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 provide duties for landlords of certain rented domestic properties in relation to managing risks associated with the electrical installation. Without prejudice to the wording of the regulations these include:

- Ensure national standards for electrical safety are met. These are set out in the 18th edition of the 'Wiring Regulations', which are published as British Standard 7671.
- Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the local housing authority with a copy of this report within 7 days of receiving a written request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.

The regulations can be found online [here](#).

Where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3, the authority may impose a financial penalty of up to £30,000. The regulations detail the steps required by a local authority to take as well as the right of a landlord to make representations and the right of appeal against any subsequent decision to issue a financial penalty.

In determining the value of a financial penalty Cannock Chase Council will have regard to the matrix below. In using this matrix, the council has regard to the non-statutory guidance documents issued by the government which can be found [here](#), in particular the "[Guide for local authorities: electrical safety standards in the private rented sector](#)"

General principles (to be applied to all financial penalties made for offences under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

No penalty charge shall be issued above the statutory maximum of £30,000

No penalty charge shall be less than 20% of the starting value after all aggravating and mitigating factors are considered and after perpetrator income has been taken into account.

Mitigating factors will be considered based on evidence submitted by the landlord or their agent to the Housing Standards Team prior to and including any representations that the landlord provides following service of a Notice of Intent to issue a Financial Penalty

In recovering the value of any financial penalty, The Council will consider the incomes, savings and assets of the perpetrator and where appropriate a payment plan considered.

Failure to comply duties under with the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 *(Note 8)*

Starting value of penalty charge <i>(note 1)</i>	Tier 1 (£)	Tier 2 (£)
1st relevant offences	6000	1200
2nd subsequent offence by same person/company	15000	3000
Subsequent offences by same person/company	24000	4800
Aggravating Factors (use all that apply) <i>(note 2)</i>		
Evidence of failure to comply with multiple duties. <i>(note 6)</i>	3000	
Acts or omissions demonstrating high culpability <i>(note 4)</i>	3000	600
Large housing portfolio <i>(note 5)</i>	3000	600
Vulnerable occupant and/or significant harm occurred as result of failure to comply with regulations <i>(note 7)</i>	3000	600
Mitigating Factors (use all that apply) <i>(note 3)</i>		
Evidence of Low culpability <i>(note 9)</i>	-3000	-600
Rapid action take to remedy failings <i>(note 10)</i>	-3000	-600

Notes to accompany charging table

Notes 1-3 set out the overall process for determining the value of a given financial penalty. Notes 4-10 give detail on specific other issues.

Note 1 Determining the starting value of a financial penalty

The starting point for a financial penalty is based on the number of:

- Previous convictions, and
- Final Notices of a Financial Penalty as per Housing Act 2004 schedule 13a issued to the same person or corporate entity for the same type of offence in the previous four years.

The Council will take into account any such convictions or financial penalties irrespective of the locality to which the offence relates.

Note 2 Aggravating factors

After the starting point as per note 1 has been determined any relevant aggravating factors are considered and where appropriate to do so, the given value is added to the starting point to provide the maximum level of financial penalty.

At this stage it is possible for the notional penalty to be above the statutory maximum, but once mitigation and income are considered, if the value is still above the statutory maximum it will be capped as per the “general principles”.

Note 3 Mitigating factors

After aggravating factors are considered and applied where appropriate, mitigating factors are considered and where there is sufficient and compelling evidence the relevant value will be discounted from the Financial Penalty.

In considering whether it is appropriate to include a mitigating factor, evidence shall be considered that has been gathered by the inspecting officer in the course of the investigation into the offence as well as any representations that have been provided following a Notice of Intent as per Housing Act 2004 Schedule 13a.

Note 4 Acts or omissions demonstrating high culpability

This premium will be applied where, the person to which the financial penalty applies, acted in a reckless or deliberate manner in not complying with the statutory notice or previous relevant formal advice.

Note 5 Large housing portfolio

The premium is applied where the perpetrator has control or manages of 10 or more units of accommodation.

For the purposes of this premium, the definition of a person having control and person managing are as defined by Housing Act 2004 Section 263.

Note 6 Multiple failings

Evidence of failure to comply with three or more separate duties within regulation 3 within this statute.

To be included where there is a evidence of a failure to comply with three or more regulations, irrespective of whether they are defined as “Tier 1” or “Tier 2”.

For the avoidance of doubt, multiple failures of the same offence do not apply, it is based on evidence of failure of duties under separate provisions within the regulations.

Note 7 Vulnerable persons and/or serious harm

This factor will be applied if either the property is occupied by a vulnerable person or if significant harm has occurred as a result of the housing conditions.

A vulnerable person is defined as:

A person who suffers, or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering due to age, disability or severe financial insecurity”

This factor applies where an occupant is vulnerable and, due to the underlying failure to comply with the relevant legislation is placed at additional risk or harm compared with a non-vulnerable resident.

For purposes of this factor, significant harm is defined as physical or mental illness or injury that corresponds to one of the four classes of harm as recorded in Housing Act 2004 Section 9 Operating Guidance for the Housing Health and Safety Rating System.

Note 8 Tier 1 and Tier 2 Offences

Where the relevant offence lists separate penalty values for Tier 1 and Tier 2 offences, further detail is provided in the tables below.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020	Regulation	Offence Tier
Ensure national standards for electrical safety are met. These are set out in the 18th edition of the 'Wiring Regulations', which are published as British Standard 7671.	3(1)(a))	Tier 1
Ensure all electrical installations in their rented properties are inspected and tested by a qualified and competent person at least every 5 years.	3(1)(b))	Tier 1
Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.	3(3)(a)	Tier 1
Supply a copy of this report to the existing tenant within 28 days of the inspection and test.	3(3)(b)	Tier 2
Supply a copy of this report to a new tenant before they occupy the premises.	(3(3)(e)(i)	Tier 2
Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.	3(3)(e)(ii)	Tier 2
Supply the local housing authority with a copy of this report within 7 days of receiving a written request for a copy.	3(3)(c)	Tier 2
Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.	3(3)(d)	Tier 2
Where the report shows that further investigative or remedial work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.	3(4) – 3(6)	Tier 1

Note 9 Low culpability

This factor will apply where the perpetrator provides sufficient evidence that they only marginally fell short of their legal obligations, for instance:

- significant efforts were made to address the risk, breaches or offences, although they were inadequate to mitigate the underlying cause to issue the penalty;
- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.
- Failings were minor and occurred as an isolated incident.

It will not be sufficient to claim not to have known of the legal requirement or deficiency that forms the underlying reason for the financial penalty in order to benefit from this factor.

It will also not apply where the underlying failure was due to the inaction of the perpetrator in properly managing rented properties, responding to complaints of poor standards, carrying out routine visits, instruct others to assist where necessary etc.

Note 10 Rapid action take to remedy failings

This factor will apply where, on notification of the offence, the perpetrator took rapid action to remedy the underlying failings which could mean:

- Undertaking remedial works to address the deficiencies noted.
- Obtaining copies of existing electrical reports and provide them to the relevant party

In order to benefit from this factor, it is the responsibility of the perpetrator to provide sufficient evidence of compliance. It will not be sufficient to simply claim works have been completed, but photographs, videos, arrangements with Housing Standards officers to visit are all appropriate measures to demonstrate compliance.

In assessing whether “rapid action” was taken, Cannock Chase Council will take into account the extent of the remedial works or actions required and the time taken from receipt of any requirement to action. This could be evidence of quotes for works, agreed start dates from contractors etc.



Smoke and Carbon Monoxide Alarm Regulations 2015 (England) Statement of Principles 2023

Introduction

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 introduced requirements from 1 October 2015 for all landlords when residential premises are occupied to ensure smoke and carbon monoxide alarms are installed and maintained. These Regulations were updated by the Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 of which this updated Statement of Principles takes account.

This Statement of principles supersedes the Cannock Chase Council - Statement of Principles_Dated 11 Nov 2015. The updated Regulations apply to all registered providers of social housing (in addition to private rented housing) unless excluded.

The Regulator of Social Housing expects all registered providers of social housing to be compliant with the regulations when they come into force on 1 October 2022, or to have plans in place to ensure their compliance in a prompt and timely way that mitigates any risk to tenants.

These regulations should be considered alongside other relevant laws on fire and carbon monoxide safety in rented homes such as the [Housing Act 2004](#), the [Fire Safety Act 2021](#) and the [Building Safety Act 2022](#).

Landlord and tenant guidance can be found [here](#).

1. Legal Requirements

All relevant landlords must:

- Ensure at least one smoke alarm is equipped on each storey of their homes where there is a room used as living accommodation.
- Ensure a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
- Ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty.
- Ensure checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

2. Exempted tenancies

The following tenancies are excluded from the regulations:

- shared accommodation with a landlord or landlord's family
- long leases
- student halls of residence
- hotels and refuges
- care homes

- hospitals and hospices
- low cost ownership homes
- other accommodation relating to health care provision

3. Enforcement

Where the Local Housing Authority has reasonable grounds to believe that:

- There are either no, or an insufficient number of working smoke alarms or carbon monoxide detectors in the property, as required by the regulations, or
- The smoke alarms or carbon monoxide detectors were not present or working at the start of the tenancy or licence.

Then the Council shall serve on the landlord a remedial notice detailing the actions the landlord must take to comply. The landlord has 28 days beginning with the day on which the remedial notice is served to comply with the notice. The landlord is entitled to make written representations against the notice within 28 days.

'Reasonable grounds' would include being informed by a tenant, letting agent, housing officer that the required alarms are not installed. The regulations do not require the Council to enter the property or prove non-compliance to issue a remedial notice although this will in most cases be done.

4. Representations

The Council will consider representations made within 28 days of receipt. During this time, the remedial notice is suspended whilst the Council considers them written and until they advise the landlord in writing of the outcome. Landlords are not expected to take remedial action during the period of the remedial notice being suspended but can do so if they wish.

Representations/reviews can be made to:

Housing Standards
Environmental Health & Public Protection
Cannock Chase Council
Civic Centre
Beecroft Road
Cannock
WS11 1BG

Email: privatesectorhousing@cannockchasedc.gov.uk

If, following a suspension period, the Council decides a landlord is in breach and confirms the remedial notice, the suspension ceases to have effect and the landlord will have a further 21 days to comply.

The Council will confirm the remedial notice in writing within seven days of the expiry of the original period for making representations (28 days). The remedial notice will be deemed to be withdrawn if the Council fails to do this.

If after 28 days, the landlord submits no representations and on the balance of probabilities has not complied with the remedial notice, a penalty charge notice can be issued. Any notice served on a landlord under the regulations may be amended or revoked by the Council in writing at any time.

5. Penalty Charges

In deciding whether it would be appropriate to impose a penalty charge, we will take account of the circumstances under consideration. Factors which the Council will take into consideration include, but are not limited to:

- The extent to which the circumstances from which the contravention or failure arose were within the control of the landlord.
- The presence or absence of internal controls or procedures which were intended to prevent the breach.
- The steps that the landlord has taken since being served with a Remedial Notice.
- Whether the landlord has been obstructed in his duty, or if the tenant has removed detectors.
- Evidence of compliance with the legislation e.g. a signed inventory at the start of the tenancy, photographic evidence showing measures installed with the date and time attached, or confirmations by the tenant.
- A financial penalty will not normally be used if the Council considers other regulatory action is more appropriate. The regulations allow for a charge of up to £5000.

The penalty charge issued must be balanced against the potentially tragic consequences of a suitable lack of detection. The remedial costs of compliance are small compared to the personal and economic costs of death or injury.

Where it is considered that a landlord has unreasonably failed to comply with the requirements of a remedial notice, the Council will arrange for the alarms to be fitted (where the occupier consents) and a penalty charge notice issued. There is no provision made in the regulations for the Council to redeem costs for any remedial works carried out. Collection of the civil penalty fine is the only method.

Subject to the determination of any appeal, the Council will recover any unpaid penalty charge, plus legal costs, through court proceedings.

6. Criteria for determining the amount of a penalty charge

The Regulations set a maximum penalty charge of £5000. In determining the amount of penalty to be applied the Council will take into consideration a range of factors, as set out in the [Appendix 1](#). Each case will be treated on its merits and will take account of the following general principles:

- That the landlord will have been served with a Remedial Notice and will, therefore, have been provided with sufficient time in which to put matters right.
- That, by not complying with the requirements of the remedial notice, the landlord is demonstrating a clear disregard for their tenant's safety and for compliance with the legislation.
- Whether works are undertaken by the landlord or, in default, by the Council.
- The cost incurred by the Council including officer-time and the cost of carrying out the works following non-compliance.
- Whether there have been repeated breaches or failure to comply.
- Whether there have been breaches of other housing legislation.

- Attempt to conceal the breach or failure to comply.
- The likely impact on tenants and associated risk to their health and safety and wellbeing.
- The absence of management controls or procedures intended to prevent the breach.
- Co-operation with investigation undertaken by the Council.
- Any unjustified written representations made against a Remedial Notice.
- Representations to the Council to review the penalty charge which are considered to be justified.
- Any other relevant matters.

Failure to comply with each remedial notice can lead to a fine. Fines will be applied per breach, rather than per landlord or property.

7. Appeal Process

If a landlord does not agree with a penalty charge notice, they can make a request to the Council for it to be reviewed. This request must be made in writing to the contact details outlined in section 4 and be made within 28 days.

Upon receiving a review request, a Senior Officer of the Council (not previously involved in the case) will consider any representations made, decide whether to confirm, vary or withdraw the notice, and serve a notice of its decision on the landlord.

If the Council decides to confirm or vary a penalty charge notice, it will inform the landlord that they can appeal to First-tier Tribunal. A landlord may appeal if the penalty charge notice is confirmed or varied after review. If an appeal is lodged, the penalty charge notice is suspended until the appeal is determined or withdrawn.

Appeals can be made on the grounds that the decision to vary or confirm the penalty charge notice was based on a factual error, was wrong in law, or was unreasonable for any other reason. Appeals can also be made on the grounds that the amount of the penalty is unreasonable.

8. Revision of statement of principles

Regulation 13(2) provides that the Council may revise its statement of principles and, where it does so, it will publish the revised statement on its website.

General principles
No penalty charge shall be issued above the statutory maximum of £5,000
No penalty charge shall be less than 20% of the starting value after all aggravating and mitigating factors are considered and after perpetrator income has been taken into account.
Mitigating factors will be considered based on evidence submitted by the landlord or their agent to the Housing Standards Team including any information provided following inspection and any representations that the landlord provides following service of a Notice of Intent to issue a Financial Penalty
In recovering the value of any financial penalty, The Council will consider the incomes, savings and assets of the perpetrator and where appropriate a payment plan considered.

Starting value of penalty charge (note 1)	£
1 st offence	2500
2nd subsequent offence by same person/company	3000
Subsequent offences by same person/company	4000
Aggravating factors (use all that apply) (note 2)	
Acts or omissions demonstrating high culpability. (note 4)	500
Large housing portfolio (note 5)	500
Vulnerable occupant and/or significant harm occurred as result of housing conditions (note 6)	500
Mitigating Factors (use all that apply) (note 3)	
Evidence of Low culpability (note 7)	-500

Notes to accompany charging table

Notes 1-3 set out the overall process for determining the value of a given financial penalty. Notes 4-7 give detail on specific other issues.

Note 1 - Determining the starting value of a financial penalty

The starting point for a financial penalty is based on the number of:

- Previous Final Notices of a Financial Penalty issued under these regulations

issued to the same person or corporate entity for the same type of offence. The Council will take into account any such financial penalties irrespective of the locality to which the offence relates.

Note 2 - Aggravating factors

After the starting point as per note 1 has been determined any relevant aggravating factors are considered and where appropriate to do so, the given value is added to the starting point to provide the maximum level of financial penalty.

At this stage it is possible for the notional penalty to be above the statutory maximum, but once mitigation and income are considered, if the value is still above the statutory maximum it will be capped as per the “general principles”.

Note 3 - Mitigating factors

After aggravating factors are considered and applied where appropriate, mitigating factors are considered and where there is sufficient and compelling evidence the relevant value will be discounted from the Financial Penalty.

In considering whether it is appropriate to include a mitigating factor, evidence shall be considered that has been gathered by the inspecting officer in the course of the investigation into the offence as well as any representations that have been provided following a Notice of Intent.

Note 4 - Acts or omissions demonstrating high culpability

This premium will be applied where, the person to which the financial penalty applies, acted in a reckless or deliberate manner in not complying with the statutory notice or previous relevant formal advice.

Note 5 - Large housing portfolio

The premium is applied where the perpetrator has control or manages of 10 or more units of accommodation.

For the purposes of this premium, the definition of a person having control and person managing are as defined by Housing Act 2004 Section 263.

Note 6 - Vulnerable persons

This note applies where the occupant is considered vulnerable to harm or where significant harm has occurred as result of failure to comply with regulations.

- Vulnerable occupant and/or significant harm occurred as result of the failure to comply with the Regulations.

For the purposes of this factor a vulnerable person is defined as:

A person who suffers, or be at risk of suffering harm or detriment which the ordinary person would not suffer or be at risk of suffering due to age, disability or severe financial insecurity”

This factor applies where an occupant is vulnerable and, due to the underlying failure to comply with the relevant legislation is placed at additional risk or harm compared with a non-vulnerable resident.

For purposes of this factor, significant harm is defined as physical or mental illness or injury that corresponds to one of the four classes of harm as recorded in Housing Act 2004 Section 9 Operating Guidance for the Housing Health and Safety Rating System.

Note 7 - Low culpability

This factor will apply where the perpetrator provides sufficient evidence that they only marginally fell short of their legal obligations, for instance:

- significant efforts were made to address the risk, breaches or offences, although they were inadequate to mitigate the underlying cause to issue the penalty;
- they have offered a reasonable defence for why they were unaware of the risk, breach or offence.

It will not be sufficient to claim not to have known of the legal requirement or deficiency that forms the underlying reason for the financial penalty in order to benefit from this factor.

It will also not apply where the underlying failure was due to the inaction of the perpetrator in properly managing rented properties, responding to complaints of poor standards, carrying out routine visits, instruct others to assist where necessary etc.

Report of:	Deputy Chief Executive - Resources
Contact Officer:	Rob Wolfe
Telephone No:	01543 464 397
Portfolio Leader:	Resources and Transformation
Key Decision:	No
Report Track:	Cabinet: 10/08/23

Cabinet
10 August 2023
Revenues and Benefits Collection Report - Quarter 1

1 Purpose of Report

- 1.1 To inform Cabinet of the performance of the Revenues and Benefits Service as regards:
- collection of Council Tax during the first quarter of the financial year.
 - collection of Business Rates during the first quarter of the financial year
- 1.2 To seek approval to the write off of the arrears listed in the **confidential appendices**.

2 Reasons for Appendices being 'Not for Publication'

- 2.1 In accordance with the provisions of Schedule 12A of the Local Government Act 1972 (as amended), the Appendices are considered 'not for publication' under the following categories of exemption:
- Exempt Paragraph 2 – Information which is likely to reveal the identity of an individual.
 - Exempt Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the Council).

3 Recommendation(s)

- 3.1 That the information regarding collections be noted.
- 3.2 That the arrears listed in the **confidential appendices** be written off.

4 Key Issues and Reasons for Recommendations

Key Issues

- 4.1 Efficient collection of the Council's revenues is of major importance to the funding of Council services and those provided by our preceptors.
- 4.2 Council Tax due for the 2023/2024-year amounts to £63.1M of which some **28.0%** was collected by the end of June. This is slightly better than last year's performance in the same period (27.8%).
- 4.3 Business Rates due for the current year amounts to £37.4M of which some **25.7%** was collected by the end of June, showing an increase on the previous year (24.0%).

Reasons for Recommendations

- 4.4 Whilst our collection rates are traditionally good, regrettably not all of the monies owed to the Council can be collected and this report contains a recommendation to write off bad debts which cannot be recovered.

5 Relationship to Corporate Priorities

- 5.1 Not applicable.

6 Report Detail

6.1 Council Tax

- 6.1.1 Council Tax is collected on behalf of the District Council, parish councils, and our Major Preceptors (Staffordshire County Council and Commissioner for Police, Crime, Fire and Rescue). The effect of the Collection fund arrangements means that Cannock Chase Council retains around 12.4% of the council tax collected.
- 6.1.2 Council Tax due for the current year amounts to £63.1M and we have collected 28.0% within the first quarter of the year. From 2020 to 2023 the collection of Council tax has been affected by issues relating to the Covid-19 pandemic and cost of living increases, both in terms of our Council tax payers' ability to pay and the Revenues Teams' ability to take action, whilst engaged in other duties to support affected residents. It is expected that collections will start to improve from the current financial year onwards and so the good start to the year is encouraging.
- 6.1.3 In accordance with the Council's approved policies, all reasonable and lawful attempts are made to recover all amounts due. In the first instance this involves the issue of bills, reminders, and final notices, followed by Summonses in the Magistrates Court where the warning notices are not effective. At all stages of this process, debtors are encouraged to engage in voluntary arrangements to repay their arrears, to prevent the need for formal action.

Where necessary and when Liability Orders are granted by Magistrates, the Council uses its powers to make deductions from earnings and benefits of debtors,

where it can, and instructs Enforcement Agents where such deductions are not possible or appropriate.

In the most severe cases and for debts exceeding £5,000, the Council will consider personal bankruptcy action against individuals.

- 6.1.4 The recovery powers available to the Council are considerable but not completely infallible. Some of the limitations which lead to debts being written off are described below.
- 6.1.5 Statutory safeguards such as Debt Relief Orders, Individual's Voluntary Arrangements exist to protect debtors suffering hardship, to attempt to the expensive, stressful, and sometimes ineffective process of personal bankruptcy. Where a debt is included in such an instrument, or when a debtor is bankrupt, our ordinary recovery powers cannot be used.
- 6.1.6 For any of our powers to be effective we need to know the whereabouts of a debtor, and this is not always the case. Where debtors abscond, we will use all reasonable endeavours to trace them and are often successful in doing so. Unfortunately, on occasions this is not so, and we must submit a debt for write off.

Our trace procedures include:

- Checking our internal Council systems and following any information which may help us to trace the debtor.
- Use of credit reference agency data.
- Trace and collect facilities offered by our Enforcement Agencies
- Visits to the last known address by the Council's Property Inspector and use of external tracing agents.

Unfortunately, legislation does not currently permit access to DWP or HMRC records to trace Council Tax debtors or their employers, though a Cabinet Office project is currently reviewing this.

Data protection legislation allows us to receive information as to a debtor's whereabouts, but we cannot disclose information to other creditors. Reciprocal arrangements with utility companies and similar are not therefore workable.

- 6.1.7 5 Irrecoverable council tax debts in the sum of £11,571.46 are listed in the **confidential appendix 1** to this report.

6.2 Business Rates

- 6.2.1 Business rates income forms a part of the Council's core funding, with around 29% of receipts being retained by this Council. The remainder is collected on behalf of Central Government and our major preceptors.
- 6.2.2 Business Rates due for the current year amounts to £37.6M of which some **25.7%** was collected by the end of June. This represents an improvement on last year's performance (24.0%).
- 6.2.3 The recovery powers available to us are again contained in the Council's approved policies and are used in full. Those powers and our procedures are similar to the

council tax powers described above, with the exception that deduction from individuals' benefits and earnings are not permissible, even if the debtor is an individual.

6.2.4 Where rates are owed by an individual, similar safeguards exist for the debtors and trace facilities are used by the Council for absconding debtors, as described above.

6.2.5 Additionally, in the case of business rates, as has been reported to Cabinet previously, our collection efforts are sometimes frustrated by weaknesses in legislation. Rates are due from the occupiers rather than the owners of property and where the occupier is a company, we can only recover from that company. Some proprietors will strip a company of its assets or dissolve the company before we have had an opportunity to implement our recovery procedures. A new company is then formed in a similar style, to trade from the same premises.

Central Government has previously undertaken to review the loopholes that exist in rating and company legislation, though no changes have yet been received. Your officers continue to actively monitor these issues.

6.2.6 9 Irrecoverable business rates debts in the sum of £134,869.66 are listed in the **confidential appendix 2** to this report.

6.3 Housing Benefit Overpayments

6.3.1 The Council manages the Housing Benefit scheme on behalf of the Department for Work and Pensions, who fund the cost of benefits paid to claimants.

6.3.2 Recovery of overpaid Housing Benefit continues to progress well, with some £106,431 being collected into the Council's General Fund in the first three months of the financial year.

6.3.3 There are no irrecoverable Benefit Overpayment debts included in the confidential appendices to this report.

7 Implications

7.1 Financial

Under the Business Rates Retention Scheme, business rates write offs will no longer be offset against the National Non-Domestic Rating Pool. Write offs will now form part of the costs of collection of business rates.

Council Tax write offs are losses to the Collection Fund and, as such, form part of the cost of collection incurred by this Council. The Council Tax write-offs on this report are 5 cases totalling £11,571.46. This represents less than 0.02% of the outstanding collectable debit as at the 1 April 2023.

The amounts being recommended are well below the value of the bad debt provision, which the Council includes within its accounts in expectation that some amounts owed will not be paid and cannot be recovered.

The cost of collecting the debts has been considered as part of the decision to put them forward for write off. If further information does come forward about the whereabouts of any of the individual debtors, the Council will pursue recovery action.

Cabinet are asked to write off the debts as they are considered to be irrecoverable for the reasons given in the appendices. The debts remain legally due to the Council and should the circumstances causing the write off in any particular case, subsequently change, recovery action may be recommenced.

6.2 Legal

Cabinet are asked to write off the debts as they are considered to be irrecoverable for the reasons given in the appendices. The debts remain legally due to the Council and should the circumstances causing the write off in any particular case, subsequently change, recovery action may be recommenced.

6.3 Human Resources

None.

6.4 Risk Management

The risk issues contained in this report are not strategic and therefore should not be included in the Strategic Risk Register.

6.5 Equality & Diversity

None.

6.6 Climate Change

None.

7 Confidential Appendices to the Report
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Appendix 1: Council Tax write offs over £1,000

Appendix 2: Business Rate write offs over £1,000

Previous Consideration

None.

Background Papers

None