

**HOUSING AND COMMUNITY  
COHESION POLICY ADVISORY  
COMMITTEE**

**10 SEPTEMBER 2024**

**Updated Environmental Health, Waste Crime & Community  
Protection Enforcement Policy 2024**

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Climate Transition, Corporate and Environmental Services Policy Advisory Committee	03/09/2024
Planning and Healthier Stronger Communities Policy Advisory Committee	04/09/2024
Housing and Community Cohesion Policy Advisory Committee	10/09/2024
Cabinet	18/09/2024

<b>Will this be a Key Decision?</b>	No
<b>Urgency</b>	Not Applicable
<b>Final Decision-Maker</b>	Cabinet
<b>Lead Head of Service</b>	Head of Environmental Services and Public Realm (CTCE PAC) Head of Housing and Regulatory Services (PHSC PAC) Director of Strategy, Insight and Governance (HACC PAC)
<b>Lead Officer and Report Author</b>	John Edwards (CTCE PAC) Carl McIvor (CTCE PAC) Nollaig Hallihan (PHSC PAC) Martyn Jeynes (HACC PAC) (Report Author)
<b>Classification</b>	Public
<b>Wards affected</b>	All

## **Executive Summary**

This report updates the combined enforcement policy for Environmental Health, Waste Crime and Community Protection Enforcement. In 2019 a combined enforcement policy was adopted to provide a framework for enforcement decisions, to improve consistency, transparency and proportionality across the services who share an enforcement heritage. This heritage not only means the use of similar practices, but also shared knowledge and best practice for the use of the tools and powers the officers use in their day-to-day work. A published enforcement policy allows businesses, organisations and the community to be aware of the basis on which enforcement action is taken. The enforcement policy is a decision-making framework to support enforcement officers, it does not determine what is enforced or how that enforcement is resourced. This is a cabinet decision report that is to be considered by all three advisory committees due to the remits covered by the enforcement policy and their respective portfolios.

## **Purpose of Report**

Decision

## **Choose from the below options:**

**This report asks the Committee to consider the following recommendation to the Cabinet:**

1. To approve the adoption of the Environmental Health, Waste Crime and Community Protection Enforcement Policy 2024 to replace the 2019 policy

# Updated Environmental Health, Waste Crime & Community Protection Enforcement Policy 2024

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>The updated policy has elements that will support all the priorities listed in the Strategic Plan.</p>	<p>John Edwards (CTCE PAC)            Nollaig Hallihan, Food &amp; Commercial Team Leader (PHSC PAC)            Community &amp; Strategic Partnerships Manager (HACC PCAC)</p>
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The report recommendation supports the achievement of the Health Inequalities and Environmental Sustainability cross cutting objectives by providing clear guidelines for the enforcement of public health and the environmental protection legislation.</p>	<p>John Edwards (CTCE PAC)            Nollaig Hallihan, Food &amp; Commercial Team Leader (PHSC PAC)            Community &amp; Strategic Partnerships Manager (HACC PCAC)</p>
<b>Risk Management</b>	<p>The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework.</p>	<p>John Edwards (CTCE PAC)            Nollaig Hallihan, Food &amp; Commercial Team Leader (PHSC PAC)            Community &amp; Strategic Partnerships Manager (HACC PCAC)</p>
<b>Financial</b>	<p>The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.</p>	<p>Section 151 Officer &amp; Finance Team</p>

<b>Staffing</b>	We will deliver the recommendations with our current staffing.	John Edwards (CTCE PAC) Nollaig Hallihan, Food & Commercial Team Leader (PHSC PAC) Community & Strategic Partnerships Manager (HACC PCAC)
<b>Legal</b>	The recommendations provide a comprehensive and consistent single enforcement policy across the Environmental Health Service, Waste Crime and the Community Protection Team. The legal implications are set out in the body of the report, see in particular 4.1 and 4.2 of the policy. The updated policy has been prepared in accordance with the framework.	Helen Ward, Mid Kent Legal Services
<b>Information Governance</b>	The recommendations do not impact personal information the Council processes. Privacy notices and Information Sharing and Data Management processes are in place where necessary and are not directly related to the Enforcement Policy itself.	Information Governance Team
<b>Equalities</b>	If not already considered, an Equalities Impact Assessment should be completed as part of the recommended work set out in the report to ensure they meet the needs of those affected by it.	Equalities and Communities Officer
<b>Public Health</b>	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Community & Strategic Partnerships Manager
<b>Crime and Disorder</b>	There are no implications to Crime and Disorder as the enforcement policy reinforces existing processes	John Edwards (CTCE PAC) Nollaig Hallihan, Food & Commercial Team Leader (PHSC PAC) Community & Strategic Partnerships Manager (HACC PCAC)

<b>Procurement</b>	No implications identified	Head of Environmental Services and Public Realm (CTCE PAC) Community & Strategic Partnerships Manager (PHSC PAC) Director of Strategy, Insight and Governance (HACC PCAC)
<b>Biodiversity and Climate Change</b>	The implications of this report on biodiversity and climate change have been considered, enforcement in respect of protecting the environment will have a positive effect on Biodiversity and Climate Change in the Borough	Director of Strategy, Insight and Governance

## 2. INTRODUCTION AND BACKGROUND

- 2.1 The Mid Kent Environmental Health Service, Waste Crime and the Community Protection Team operate with environmental, animal welfare and public health legislation that can impact on people and businesses in our community. Each of these services seek to protect the health and wellbeing of individuals from harm whether this is from food, noise, smoke or poor health and safety practices and to protect the environment.
- 2.2 The current combined enforcement policy (Appendix 1) was adopted in 2019 and has been reviewed informally on an annual basis. In the most recent review, it was felt that changes made in national guidance and observations/feedback in relation to recent enforcement action meant that some minor alterations should be made to improve the policy and to provide clarity in relation to specific provisions, particularly in relation to animal welfare/licensing which introduces some additional tools for officers to use to ensure compliance. The draft 2024 policy can be found in Appendix 2. Until the new enforcement policy is approved, the 2019 policy will continue to be used.
- 2.3 There are many aspects of the work Environmental Health, Waste Crime and Community Protection deliver, in terms of legislation and enforcement process which support the retention of a combined policy.
- 2.4 The enforcement policy provides managers and officers with guidance and a framework for the enforcement process; it does not determine the outcome of individual cases. The policy also provides both businesses and individuals with clear indications on how they will be treated. It should provide them with

the confidence that enforcement action is consistent and proportionate with any non-compliance.

- 2.5 In terms of decision making within individual service areas, officers are authorised according to their competency and role, these are reviewed annually. Each service, Mid Kent Environmental Health, Waste Crime and Community Protection have clear decision-making processes that help to embed consistent standards in their service areas, and this also determines what is enforced and how. This is separate to this policy itself.
  - 2.6 As a general principal, officers follow a stepped approach to enforcement, but where there are serious or flagrant breaches of legislation, or there is imminent risk to the health or welfare of people, immediate enforcement action may be considered.
  - 2.7 The policy also identifies that sometimes the local authority has no power to act when complaints are made. For example, where we are not the correct regulator or where the problem and its solution sit outside any statutory powers.
  - 2.8 The enforcement options available to officers in the Mid Kent Environmental Health Service, Waste Crime and Community Protection Teams range from advice and guidance, written warnings, statutory notices, improvement notices, fixed penalty notices, seizures, refusals or revocations of approval for food businesses and licenced animal processes, simple cautions, and prosecution. In general, most work undertaken by our services involves advice, guidance and written warnings.
  - 2.9 The amendments to the existing policy include:
    - Updates to the Internal and External partners lists
    - Corrections to typos
    - Inclusion of Animal Penalty Notices and guidance on their use
    - Inclusion of animal welfare under improvement notices
    - Clarification specific to Refusal/Variation/Suspension/Revocation of Animal Licence
    - Change of approval to the Cabinet, as the services cover 2 or more portfolios
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### **3. AVAILABLE OPTIONS**

- 3.1 To approve the combined enforcement policy 2024 to replace the previous 2019 policy for both the Mid Kent Environmental Health Service and Community Protection Team. To enable provide better clarity and wider scope than the current individual service policies
- 3.2 Cabinet/Committee may decide to not approve the updated policy, which includes new tools and clarity. This is not recommended as it will not support the purpose of the policy and will devalue the existing policies revision process. In this scenario the current 2019 policy would remain in place.

- 3.3 Cabinet/Committee may decide not to approve the policy in its current form and request each service revert to individual enforcement policies. There will be a delay in adopting the revised enforcement policies and an increase in committee workload with three separate policies coming before committee. There will be no impact on the work of the service areas who will take enforcement decisions based on the current 2019 policy.
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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The preferred option is the approval of the updated Enforcement Policy. The policy is comprehensive, and the new policy includes further clarity on options and scope for enforcement not specifically addressed in the previous policy.
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#### **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at paragraph 2.2. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
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#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 No consultation process is considered necessary for the enforcement policy. National guidance and best practice were considered and used in its drafting.
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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 The Enforcement Policy will be published on the Maidstone Borough Council website for view or download. Printed copies will be available on request from officers of the services.
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#### **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix 1: Environmental Health, Waste Crime & Community Protection Enforcement Policy 2019
  - Appendix 2: Draft Environmental Health, Waste Crime & Community Protection Enforcement Policy 2024
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#### **9. BACKGROUND PAPERS**

None