



**Notice of a public meeting of
Decision Session - Executive Member for Culture, Leisure &
Tourism**

To: Councillor Ayre (Executive Member)

Date: Tuesday, 19 January 2016

Time: 3.00 pm

Venue: The Thornton Room - Ground Floor, West Offices
(G039)

A G E N D A

Notice to Members – Post Decision Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4:00 pm on Thursday 21 January 2016**.

*With the exception of matters that have been subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Policy and Scrutiny Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **Friday 15 January 2016 at 5.00 pm**.

1. Declarations of Interest

At this point in the meeting, the Executive Member is asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which he might have in respect of business on this agenda.

2. **Minutes** (Pages 1 - 4)
To approve and sign the minutes of the Decision Session held on 27 November 2015.

3. **Public Participation**
At this point in the meeting, members of the public who have registered their wish to speak at the meeting can do so. The deadline for registering is at **Monday 18 January 2016 at 5.00 pm.**

Members of the public may register to speak on :-

- an item on the agenda
- an issue within the Executive Member's remit;

Filming, Recording or Webcasting Meetings

Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at: https://www.york.gov.uk/downloads/file/6453/protocol_for_webcasting_filming_and_recording_council_meetingspdf

4. Legal Actions – 1 April 2015 to 30 September 2015

(Pages 5 - 16)

The purpose of this report is to enable the Executive Member to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by:-

- Public Protection (Environmental Health, Trading Standards and licensing)
- Regional Scambuster Team and National Trading Standards eCrime Centre,
- Housing Services

This decision will be taken in consultation with the Executive Member for Housing and Safer Neighbourhoods.

5. Urgent Business

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

Democracy Officer:

Name- Judith Betts

Telephone No.- 01904 551078

Email-judith.betts@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Culture, Leisure & Tourism
Date	27 November 2015
Present	Councillor Ayre (Executive Member)
In Attendance	Councillor K Myers

13. Declarations of Interest

At this point during the meeting the Executive Member was asked to declare if he had any personal, prejudicial or disclosable pecuniary interests in the business on the agenda. He declared that he had none.

14. Minutes

Resolved: That the minutes of the Decision Session held on 23 October be signed and approved by the Executive Member as a correct record.

15. Public Participation

It was reported that there had been one registration to speak under the Council's Public Participation Scheme.

Sue Galloway spoke regarding the agenda item on volunteering. She asked that the Council take a common sense approach in relation to volunteer insurance and gave a number of examples in the community. She stated that in the one case of the Foxwood Community Centre café, a resident run scheme, that health and safety inspections had inspected them as a commercial operation.

This had felt disproportionate in comparison to commercial ventures and had put off volunteers that had already received training and gained a qualification. Litter pickers had also been asked to undertake training and again she felt this was disproportionate in relation to the complexity of the task.

She also felt that there was some confusion as to what the Council's insurance covered in relation to volunteering and the Resident Association cover that is set to cover up to 5 events per year.

She asked that Council's insurance policies to be reviewed in order to have one overarching policy to cover volunteers in one organisation in whatever activity that they choose to carry out.

16. Volunteering and the Council

The Executive Member asked Officers whether other external voluntary sector organisations that had an interest in volunteering, were involved within the Volunteer Managers' Network, as he felt some of the smaller voluntary organisations could pick up knowledge by being part of the network. It was stated that the network was currently an internal forum but membership could look to include external organisations.

He added that volunteering was an untapped resource and that he wished to double the number of Local Authority staff volunteers and to simplify the process of volunteering.

In response to comments raised by the public speaker in relation to insurance for volunteering, Officers informed the Executive Member that that there may be confusion in relation to the council's cover for those that volunteer for the council, and the Residents Association Federation had an insurance policy that covered Residents Associations and they would seek to clarify this.

Resolved: (i) That the new Volunteering Policy, as set out in Annex 2 of the Officer's report, for the City of York Council be adopted.

(ii) That the Volunteer Managers' Network workplan be approved.

(iii) That the Executive Member receive an update report on progress in 12 month's time.

Reason: To ensure compliance with the York Charter for Volunteering and to enable the Council to offer and promote a strong volunteering culture for its employees and residents.

Councillor N Ayre, Executive Member
[The meeting started at 3.30 pm and finished at 3.40 pm].

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**Decision Session – Executive Member for
Culture, Leisure and Tourism**

19 January 2016

Report of the Assistant Director for Housing and Community Safety

Legal Actions – 1 April 2015 to 30 September 2015

Summary

1. The purpose of this report is to enable the Executive Member to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by:-
 - Public Protection (Environmental Health, Trading Standards and licensing)
 - Regional Scambuster Team and National Trading Standards eCrime Centre,
 - Housing Services

Background

2. The Cabinet Member for Crime and Stronger Communities approved an updated enforcement policy for Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services in February 2012. The Cabinet Member also approved an enforcement policy for the Scambusters and National eCrime team in June 2013.
3. This report details the results of legal action taken in the period specified. Each case is considered on its merits before legal proceedings are instituted.
4. Annexes A and B summarise the action taken. Please note that a Simple Caution is a Home Office approved procedure which is an alternative to prosecution. It involves a written acceptance that an offence has been committed and may be drawn to the attention of a court if any subsequent offence is committed within two years of issue.

Consultation

5. Not applicable.

Options

6. Not applicable as the Executive Members are being asked to note the content of the report.

Analysis

7. The main purpose of the environmental health, trading standards, licensing services are to maintain a fair and safe trading environment for consumers and businesses, to help reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York and to improve and protect public health and improve the environment.

We ensure legal compliance by:

- Helping and encouraging businesses and individuals to understand and comply with the law.
 - Responding proportionately to breaches of the law.
8. We consider the impact that our regulatory activities may have on businesses, including consideration of costs, effectiveness and perceptions of fairness. We will only adopt a particular approach if the benefits justify the costs and in doing so will endeavour to try to keep any perceived burdens to a minimum.
 9. Formal enforcement action will only be considered and taken in the first instance in cases involving unfair commercial practices against consumers or businesses, commercial fraud, sales of age restricted products, supply of counterfeit goods, intellectual property crime, occupational health and safety, public safety, risk to public health (including food safety), statutory nuisances, animal health and welfare, the compositions of safety or animal feeding stuffs, damage to the environment, overloaded goods vehicles, dog fouling, trading standards offences committed by doorstep sellers, breaches of licence conditions, operation of unlicensed taxis, unauthorised street trading activities and charitable collections, or in any other case in which a head of service considers formal enforcement action is necessary. Formal enforcement action will also be considered and may be taken where advice has been ignored.
 10. The purpose of the Scambuster and National eCrime teams is to tackle the scams and complex cases of fraud perpetrated on a regional and national basis in an effective way that isn't readily achievable by individual local authorities. It is not to provide advice, information or carry out inspections of regulated businesses.

The Scambusters Team will take appropriate formal enforcement action in cases concerning fraud, significant unlawful consumer detriment, unlawful exploitation of vulnerable consumers groups, intellectual property crime and any other matter that the assistant director (housing and community safety) considers necessary within the scope of the purpose of the teams.

Council Priorities

11. The legal actions support the Council's priorities in respect of the following:
 - A prosperous city for all – enabling legitimate businesses to thrive by tackling competition based on unfair and unsafe practices and ensuring residents having good quality housing.
 - A focus on frontline services – many of the actions are taken in response to complaints from members of the public some of whom are the most disadvantaged in the City.
 - This action is taken as part of our statutory duties.

Implications

12. **Financial:** There are no financial implications associated with this report.
13. **Human Resources:** There are no Human Resources implications associated with this report.
14. **Equalities:** There are no equalities implications associated with this report.
15. **Legal:** There are no legal implications associated with this report
16. **Crime and Disorder:** Formal enforcement action contributes to reducing anti social behaviour and dishonest trading.
17. **Information Technology (IT):** There are no IT implications associated with this report.
18. **Other:** There are no other implications associated with this report.

Risk Management

19. There are no known risks associated with this report.

Recommendations

20. That the Executive Member, in consultation with the Executive Member for Housing and Safer Neighbourhoods approve this report.

Reason: So that the Executive Member reviews formal enforcement activity undertaken by Public Protection, the Regional Scambuster Team and the National Trading Standards eCrime Centre in addition to Housing Services.

Contact Details

Author:

Matt Boxall
Head of Public Protection
Phone: 01904 551528

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director (Housing and Community Safety)

Report
Approved



Date 1 December
2015

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services Enforcement Policy (February 2012)

Trading Standards Scambuster Team and National Trading Standards eCrime Centre Enforcement Policy Statement (June 2013)

Annexes

Annex A: Public Protection Formal Enforcement Action between 1 April 2015 – 30 September 2015.

Annex B: Housing Formal Enforcement Action between 1 April 2015 – 30 September 2015

Annex A

Public Protection**Formal Enforcement Action 1st April 2015 to 30th September 2015****Animal Health**

A Simple caution was issued under the Welfare of Animals Act 1981 for causing unnecessary suffering to an animal.

Food

Defendant	Legislation	Nature of Case	Penalty	Costs
The Farm Shop and Cafe Ltd (Farm Shop and Cafe)	Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972	Food Hygiene	Fine 3 X £500 Victim Surcharge £50.	£2,272.80
Gillian McNamara (Partner – Little Macs)	Food Safety and Hygiene (England) Regulations 2013.	Food Hygiene	Total Fine £1500.00 Victim Surcharge £200.00	£1069.10
John McNamara (Partner – Little Macs)	Food Safety and Hygiene (England) Regulations 2013.	Food Hygiene	Total Fine £1200.00 Victim Surcharge £200.00	£1069.10
Aminur Rahman trading as Jorvik Spice (Owner – restaurant)	Food Safety and Hygiene (England) Regulations 2013.	Food Hygiene	Fine £500 Banned indefinitely from managing food business £20 Court charge	£800.00

Simon Geein Sung (Owner – Hong Kong House)	Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972	Food Hygiene	Fine 3 x £2000 Hygiene prohibition order Victim Surcharge £80.00	£2,500.00
Village Green Preserves Ltd (Manufacturer)	Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972	Food Hygiene	Fine £1200.00 Victim Surcharge £150.00	£873.44

3 simple cautions were issued under the Food Hygiene (England) Regulations 2006 (as amended) made under the European Communities Act 1972 for failing to comply with a hygiene improvement notice.

A simple caution was issued under the Food Safety Act 1990 for selling an undercooked sausage which was not of the nature demanded.

A Simple Caution was issued under the Food Safety Act 1990 for selling a chicken curry which contained nuts when ordered without nuts.

A Simple Caution was issued under the Food Safety Act 1990 for falsely describing food on a menu.

Health & Safety/Licensing

1 x £50 fixed penalty notice was issued under the Health Act 2006 for smoking in a vehicle/premise.

Trading Standards

A simple caution was issued under the Trade Marks Act 1994 for possession counterfeit earrings.

A written assurance was obtained under the Trade Marks Act 1994 for selling goods which bore a sign identical or likely to be mistaken for a registered trade mark.

A written assurance was obtained under the Consumer Protection from Unfair Trading Regulations 2008 for displaying a Quality in Tourism sign which the hotel was not entitled.

A written assurance was obtained under the Consumer Protection from Unfair Trading Regulations 2008 for selling a car with misleading information.

Scambusters/eCrime

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation
Marc Charles JONES t/a Home Improvements Centre (Manager within Adjust 4 Life Limited)	Consumer Credit Act 1974/Company Directors Disqualification Act 1986/Fraud Act 1996	No credit licence/acted in contravention of a disqualification/were knowingly a party to a carrying on of a business with the intention of defrauding creditors/aggressive commercial practices	3 years imprisonment Disqualified as director for 12 years	None	£10,000.00
Nathan Lee JONES (Director of Adjust 4 Life Limited)	Consumer Credit Act 1974	No credit licence	80 hours unpaid community service within next 12 months	£500.00	None
Ashton Kevin SAUNDERS (Owner – Blue Tech Media)	Fraud Act 2006/Proceeds of Crime Act 2002	False representations relating to grants to fund online advertising	18 month prison sentence suspended for 2 years 300 hours unpaid work	£8776.00	£13255.00

Annex B

Housing Formal Enforcement Action 1st April 2015 to 30th September 2015**Anti Social Behaviour**

Defendant	Legislation	Nature of Case	Penalty	Costs
Jacob Richardson	Housing Act 1985	Warrant Application	Application to suspend refused, evicted	None
Nigel Williams	Housing Act 1985	Possession Application	Suspended Possession	£357.00
Karl Dobson	Housing Act 1985	Possession Application	Suspended Possession	Costs not awarded
Karl Dobson	Anti-Social Behaviour, Crime & Policing Act 2014	Injunction Application	Injunction Order and Power of Arrest granted	Costs not awarded
Joanne Heels	Anti-Social Behaviour, Crime & Policing Act 2014	Injunction Application	Injunction Order and Power of Arrest granted	£280.00
Ernest Hudson	Housing Act 1985	Warrant Application	Warrant suspended on terms	£110.00
Michael Fullerton	Housing Act 1985	Possession Application	Possession forthwith	No order for costs
Gemma Bradford	Housing Act 1985	Possession Application	Suspended Possession	£357.00
Valerie & Brian Wright	Housing Act 1985	Variation of Possession Order	Variation Ordered	£155.00
Dawn Cowcill	Housing Act 1985	Possession Application	Possession forthwith	£357.00

Kerry Cox	Housing Act 1985	Possession Application	Suspended Possession Order	£357.00
Sarah Allan	Anti Social Behaviour, Crime & Policing Act 2014	Injunction Application	Injunction Order and Power of Arrest granted	No order for costs
Alexandra Ashton	Housing Act 1985	Possession Application	Possession forthwith	£357.00

Rent (CYC) Held in Chambers (Private) so details as to names cannot be disclosed.

Legislation	Nature of Case	Penalty	Costs	Number of Cases
Housing Act 1885	Possession Application	Outright Possession Order	£319.50	12
Housing Act 1885	Possession Application	Outright Possession Order	No order for costs	0
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	£319.50	53
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	No order for costs	1
Housing Act 1885	Possession Application	adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	£319.50	6

Housing Act 1885	Possession Application	Adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	No order for costs	13
Housing Act 1885	Application to suspend warrant	Warrant suspended	£110.00	19
Housing Act 1885	Application to suspend warrant	Warrant suspended	No order for costs	2
Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	£110.00	2
Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	No order for costs	0

Other Possessions (CYC)

Defendant	Legislation	Nature of Case	Penalty	Costs
Kenneth Collington	Housing Act 1985	Possession for Non Occupation	Possession forthwith	£357.00
Jasmine Williams	Housing Act 1996	Possession from temporary accommodation	Application withdrawn	No order for costs
Ben Enwright	Housing Act 1996	Introductory Tenancy	Application withdrawn	CYC to pay costs
Jayne Stafford	Housing Act 1985	Warrant application – other tenancy breaches	Warrant suspended on terms	£110.00

Thomas Barker	Housing Act 1996	Introductory Tenancy	Possession Forthwith	£349.50
Daniel Kilner	Housing Act 1996	Introductory Tenancy	Possession Forthwith	£349.50

Anti Social Behaviour- Other Landlords

Railway Housing Association – Order varying Suspended Possession Order obtained.

Variation included ASB Provisions.

Order for costs of application to be added to Court costs account in the sum of £155.00.

Nothing to report for Yorkshire Housing Association or Tees Valley Housing Association.

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