
**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

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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.