
**Decision Session Executive Member for
Housing & Safer Neighbourhoods in
consultation with the Executive Member for
Culture, Leisure and Tourism**

25 August 2015

Report of the Assistant Director for Housing and Community Safety

Legal Actions – 1 October 2014 to 31 March 2015

Summary

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

Recommendations

2. That the Executive Member in consultation with the Executive Member for Culture, Leisure and Tourism approve this report.

Reason: So that the Executive Member reviews formal enforcement activity undertaken by Environmental Health, Trading Standards, Licensing Services, the Regional Scambuster Team, the National Trading Standards eCrime Centre and Housing Services.

Background

3. 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.

4. 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.
5. 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

6. Not applicable.

Options

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

Analysis

8. 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.
9. 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.
 10. 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 standard

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.

11. 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 Scambuster 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

12. Three current council priorities – which are due for review this year - are “Protect jobs and grow the economy”, “Protect vulnerable people” and “Protect the environment”. Many legal actions are taken in support of these priorities.

Implications

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

Risk Management

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

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 17 August 15

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

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

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=735&MId=6754>

Trading Standards Scambuster Team and National Trading Standards eCrime Centre Enforcement Policy Statement (June 2013). (Report available online only)

Annexes

Annex A : Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre Formal Enforcement Action between 1 October 2014 - 31 March 2015.

Annex B: Housing Formal Enforcement Action between 1 October 2014 - 31 March 2015

Environmental Health, Trading Standards, Licensing, the Regional Scambuster Team, and the National Trading Standards eCrime Centre
Formal Enforcement Action
1 October 2014 - 31 March 2015.

Animal Health

2 simple cautions were issued under the Animal Health Act 1981 for causing unnecessary suffering to an animal.

Food Unit

Defendant	Legislation	Nature of Case	Penalty	Costs
Abdul AHAD (Proprietor)	Food Safety Act 1990, as amended / Food Safety (England) Regulations 2013 made under the European Communities Act 1972	Food hygiene / peanuts found in takeaway	Fine £700.00 VC £70.00	£300.00
Giampaolo SILESU (Restaurant Owner)	Food Hygiene (England) Regulations 2006 (as amended) / Food Safety and Hygiene (England) Regulations 2013 made under section 2(2) of the European Communities Act 1972	Food hygiene	Fine £12,000.00 Victim Surcharge £120.00	£2,506.08

2 simple cautions were issued under the Food Safety Act 1990 as amended for selling food that was ordered without peanuts which contained peanut protein.

4 simple cautions were issued under the Food Hygiene (England) Regulations 2006 (as amended) made under the European Communities Act 1972 for hygiene offences.

A simple caution was issued under the Food Safety Act 1990 for falsely describing alcohol.

2 simple cautions were issued under the Food Safety Act 1990 for selling takeaway food which was not of the nature demanded.

A Simple caution was issued under the Food Safety Act 1990 for obstructing a person in execution of this Act.

Environmental Protection

Defendant	Legislation	Nature of Case	Penalty	Costs
Nikki MOLYNEUX (Private individual)	Environmental Protection Act 1990	Noise nuisance	Fine £100.00 VC £20.00	£50.00
Michael SMITH (Private individual)	Clean Air Act 1983	Burned insulation from cable with a view to recovering metal	Fine £700.00 VC £70.00	£1021.79

Trading Standards

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Kits Cars Ltd (Car Retailer) Kit Peter BARRETT (Company Officer)	Road Traffic Act 1988 / Consumer Protection from Unfair Trading Regulations 2008	Supplied unroadworthy cars / misleading information/ offences committed by Kits Cars Ltd with consent or connivance as an officer of the body or attributable to neglect	3 yrs Conditional discharge	£1936.69 Victim Surcharge £15.00	£1039.86	N/A
Nicholas PERICLEOUS	Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 (as amended) / Consumer Protection Act 1987	Supplied/ possessed tobacco with incorrect labelling.	12 moths conditional discharge	£500.00 £15.00 Victim Surcharge	N/A	N/A

2 simple cautions were issued under the Consumer Protection from Unfair Trading Regulations 2008 for falsely claiming a product was approved, endorsed or authorised by a public or private body.

A written assurance was obtained under the Enterprise Act 2002 for breaches under the Consumer Protection from Unfair Trading Regulations 2008 for falsely claiming a product was approved, endorsed or authorised by a public or private body.

2 written assurances were signed under the Enterprise Act 2002 for various breaches of civil consumer protection legislation

Scambusters

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
John Charles BOON (Manager)	Conspiracy to Defraud / Proceeds of Crime	Council Tax banding scam	6 Months imprisonment suspended for 2 yrs	N/A	N/A	N/A
Wayne Peter BRAY (Used car dealer)	Conspiracy to defraud /Proceeds of Crime Act 2002/Consumer Protection from Unfair Trading Regulations 2008	Conspiracy to defraud/ money laundering/ misdescribed vehicles	Original Sentence: 2 years imprisonment Banned as a company director	N/A	N/A	Confiscation £204,242.60 Pay within 6 months or further 2 ½ years imprisonment

Scambusters (Continued)

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Kirk Michael CLAUS (Used car dealer)	Confiscation Hearing - Conspiracy to defraud /Proceeds of Crime Act 2002/Consumer Protection from Unfair Trading Regulations 2008	Conspiracy to defraud/money laundering/ misdescribed vehicles.	Original sentence: 3 years imprisonment Banned as a company director Further 11 months imprisonment for Contempt	N/A	£44,430.20	Confiscation £6,203025.72 Pay within 6 months or face further 7 years imprisonment
Peter HALL (Company Director)	Proceeds of Crime Act 2002	Contempt of a Crown Court Restraint Order	56 days imprisonment	N/A	N/A	N/A
Jack Darrell HENRY (Company Director)	Conspiracy to Defraud / Proceeds of Crime	Council Tax banding scam	Imprisonment 5yrs 10 mths Banned from Company director for 13	N/A	N/A	N/A

			year Fraud was estimated as over £250,000.			
Wendy Ann SMITH (Sales- person)	Conspiracy to Defraud / Proceeds of Crime	Council Tax banding scam	2 years imprisonment	N/A	N/A	N/A

ECrime

Defendant	Legislation	Nature of Case	Penalty	Costs	Compensation	Confiscation
Alexandru HINCU (Proprietor)	Fraud Act 2006	Fraudulent offers of employment	6 months imprisonment suspended for 2 years 180 hours unpaid community work	£5048.48	£2466.00	N/A

**Environmental Health, Trading Standards, Licensing & Housing
Formal Enforcement Action 1st October 2014 to 31st March 2015**

Anti Social Behaviour

Defendant	Legislation	Nature of Case	Penalty	Costs
Roma Burnside	Housing Act 1985	Possession Claim	Claim adjourned generally, subsequently handed keys in	None
Gilfred Hewitson	Housing Act 1996	Injunction Application	Final order granted	Costs not awarded
Viki Page	Housing Act 1996	Injunction Application	Final order granted	£285.00
Anthony Booth	Housing Act 1996	Injunction Application	Final order granted	Costs not awarded
Stacey Wilson	Housing Act 1985	Possession Application	Possession forthwith	No order for costs (Legal Aid)
Floyd Moynihan	Housing Act 1985	Possession Application	Suspended Possession Order	No order for costs (Legal Aid)
Stacey Wilson	Housing Act 1985	Injunction Application	Final Order granted	Costs not awarded
Alan Richardson	Housing Act 1985	Possession Application	Possession forthwith	No order for costs
Stuart Harding	Housing Act 1985	Possession Application	Possession forthwith, subsequently vacated	No order for costs
Dennis Patton	Housing Act 1985	Possession Application	Stay application dismissed, evicted	No order for costs
Ian Gibbons	Housing Act 1985	Possession Application	Suspended Possession order	£357.00

Donna Ward	Housing Act 1985	Possession Application	Possession forthwith	£357.00
Helen Richardson	Housing Act 1985	Possession Application	Possession forthwith	£357.00
Kerry Wright	Housing Act 1985	Possession Application	Application to suspend warrant dismissed, subsequently evicted	£4730.00
Denise Darlington	Housing Act 1985	Possession Application	Possession forthwith	£349.50

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	13
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	70
Housing Act 1885	Possession Application	Suspended Possession Order (SPO) granted	No order for costs	0
Housing Act 1885	Possession Application	adjourned generally with liberty to restore with automatic strike out if no application made within 12 months	£319.50	5
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	3
Housing Act 1885	Application to suspend warrant	Warrant suspended	£110.00	23

Housing Act 1885	Application to suspend warrant	Warrant suspended	No order for costs	4
Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	£110.00	1
Housing Act 1885	Application to suspend warrant	Application dismissed – evicted	No order for costs	2

Other Possessions (CYC)

Defendant	Legislation	Nature of Case	Penalty	Costs
Mary Allan		Possession from temporary accommodation	Possession forthwith	No order for costs (Legal Aid in place)
John Harrison		Trespass	Possession forthwith	No order for costs
Mark Duncan		Possession from temporary accommodation	Possession forthwith	£349.50.
Rental case		Possession from temporary accommodation	Possession forthwith	£349.50.

Anti Social Behaviour (Yorkshire Housing Association).

Nothing to report

Anti Social Behaviour (Tees Valley Housing Association)

Nothing to report