
**Executive Member for Economy and Strategic
Planning**

20 January 2020

**Executive Member for Housing and Safer
Neighbourhoods**

Report of the Assistant Director for Planning and Public Protection

Update on formal enforcement action

Summary

1. The purpose of this report is to enable the Executive Members to review the formal enforcement action as well as the surveillance activity undertaken in 2018-19 by:-
 - Public Protection (Environmental Health, Trading Standards and Licensing)
 - Housing Services
 - Community Safety
 - National Trading Standards Regional Investigation and National Trading Standards eCrime teams
2. Examples of the action taken includes prosecutions of food businesses for failing to keep premises clean or take appropriate steps to ensure the food they are selling is safe, action against unscrupulous traders 'ripping off' consumers, housing repossessions for anti-social behaviour and a whole host of actions for anti-social behaviour such as fly tipping, urinating in the street and failing to control dangerous dogs amongst many other things.

Recommendations

3. That the Executive Members approve the report.

Reason: To provide oversight to the activity undertaken in 2018-19, and meet the requirement of the surveillance commissioner for Member oversight of surveillance activity.

Background

4. The City of York Council's Executive approved an updated enforcement policy for Public Protection, Housing Services and Community Safety on 28 September 2017. It also approved a separate, updated policy for the National Trading Standards Regional Investigation and National Trading Standards eCrime teams at the same time.
5. This report details the results of formal enforcement action taken in the period specified. Each case is considered on its merits before legal proceedings or other types of formal enforcement action including a 'simple caution' or fixed penalty notices are initiated.
6. Annex A summarises the enforcement action taken by each team.
7. Annex B gives details of the surveillance activity undertaken as part of the team's investigations. Local Authorities may only undertake 'surveillance' in connection with serious offences i.e. offences which carry a maximum prison sentence of 6 months or more and/or other specific offences such as those in connection with the sale of alcohol or tobacco to children.

Public Protection

8. Public Protection Officers undertake the majority of the council's environmental health, trading standards and licensing duties and as such are responsible for enforcing over a hundred Acts of Parliament and thousands of underpinning Regulations. Each year, officers carry out a detailed assessment of the issues most affecting residents, visitors and businesses within the city and identify a series of 'priorities' around which most activity will be focussed.
9. The priorities for 2018-19 were as follows:-
 - Ensuring businesses meet food safety requirements

There is a separate, statutory food plan which sets out our planned activity in this respect.
 - Ensuring local businesses are meeting their health and safety obligations
 - Dealing with nuisance from noise, smoke, odour etc emanating from commercial premises

The Community Safety team have responsibility for dealing with domestic noise including operating the night time noise nuisance service
 - Improving the environment, particularly in relation to air quality

- Protecting residents from unfair trading practices – particularly doorstep crime, mass marketing scams and second hand vehicles.
- Preventing the supply of dangerous products including illegal supplies of alcohol tobacco and potentially harmful foods.

This includes activity to prevent illegal sales of age restricted products such as alcohol, tobacco and knives (all minimum age 18) and involves advising businesses on their legal obligations and undertaking 'test purchases' with the help of young persons to ensure they are complying with their obligations. We respond to complaints and other sources of intelligence about problem premises and areas of anti-social behaviour, we also carry out some routine purchases to test wider compliance. In relation to any other age restricted products including spray paints (minimum age 16) , fireworks (18) and solvents (18) we carry out activity in response to complaints and intelligence about particular problem businesses.

- Ensuring businesses are meeting their licensing obligations

10. Please note, none of the above is of greater priority than any another. The enforcement activity shown in Annex A reflects that officers have been working in accordance with these priorities.

11. Similar priorities remain for 2019-20, and our approach will largely remain unchanged except that:-

- We have re-defined the 'improving the environment priority' 'Improving local environment, particularly air quality and supporting new developments' to reflect the work we do to help developments have a positive impact on the environment. Furthermore, the work in this area will include carrying out anti-idling patrols and enforcement.
- Whilst carrying out all of this work, officers will share intelligence on serious organised crime and modern slavery with appropriate organisations.

Housing Services

12. The Housing teams manage and take enforcement action on council owned homes and managed properties for another housing organisation, Thirteen, working closely with the Community Safety Hub on more serious cases.

13. The Housing Standards and Adaptations team regulates standards in the private sector with a focus on the private rented sector and in particular Houses in Multiple Occupation.

Community Safety

14. The Neighbourhood Enforcement Team forms part of the Community Safety Hub. Officers work across three geographic 'patches', chosen to align with North Yorkshire Police's Neighbourhood Policing boundaries to assist with joint working.
15. The remit of the team is to tackle enviro crime and low level antisocial behaviour (ASB) including: domestic noise nuisance, fly tipping, commercial and domestic waste duty of care offences, waste presentation offences, flyposting, dog fouling, dog on dog attacks, litter, unlawful encampments, enforcement of Public Space Protection Orders, nuisance behaviour associated with the city centre such as nuisance begging selling or busking and street urination. The team also provides a weekend noise patrol service 9pm – 3am each Friday and Saturday.
16. Enforcement action can range from the issuing a Fixed Penalty Notice through to prosecution, depending on the seriousness of the offence. Since 2014 and the advent of the Anti-social Behaviour, Crime and Policing Act, the team have been able to issue Community Protection Notices (CPNs), following a written warning, to those committing any form of persistent anti-social behaviour impacting on the quality of life of those around them.

National Trading Standards teams

17. The purpose of the Regional Investigations teams and the National eCrime enforcement team is to tackle wide-scale scams and complex cases of fraud perpetrated on consumers and/or businesses on a regional and national basis. The national e-crime team – as the name suggests – focuses on trading standards crimes on the internet. These teams investigate individual cases and practices referred to them by local authority trading standards services and other organisations via the National Trading Standards Tasking Group, they do not take on cases directly from members of the public.

Consultation

18. A survey of Talkabout panellists was undertaken between 21/11/16 and 18/12/16 and they were asked to rank the importance of different aspects of the service carried out by Public Protection, Housing Services and Community Safety. Under the new enforcement policy, formal enforcement action is an option in all the areas they identified as important.
19. In a business survey of local retailers, food businesses and other enterprises in the city centre funded by the Department of Business, Enterprise, Innovation and Skills, some 81% of 127 respondents said

that the Council 'should take formal enforcement action against those who flout the law or ignore advice'.

Options

20. Option 1 – note the action taken with comments as necessary
21. Option 2 – note the action taken with comments as necessary and make any changes to the policy as seen fit.

Analysis

22. Option one will ensure that formal enforcement action (and surveillance activity) taken in 2018-19 has been reviewed as required.
23. Option two is likely to be of similar effect to option one, with changes to the policy that Members consider necessary.

Council Priorities

24. 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

25. **Financial:** There are no financial implications associated with this report.
26. **Human Resources:** There are no Human Resources implications associated with this report.
27. **Equalities:** There are no equalities implications associated with this report
28. **Legal:** Under the City of York Council's delegation scheme, legal proceedings may only be approved if they are in accordance with an approved enforcement policy.
29. **Crime and Disorder:** Formal enforcement action contributes to reducing anti-social behaviour and dishonest trading.
30. **Information Technology (IT):** There are no IT implications associated with this report.

31. **Other:** There are no other implications associated with this report.

Risk Management

32. Applying the Council's risk scoring criteria, operating with outdated enforcement policies poses a 'major risk' (potential action in a national court with the national media coverage) and a likelihood of 'possible' giving a score of **12** (yellow risk). Operating with up to date relevant policies, reduces the likelihood to 'unlikely' giving a score of **8** (green risk).

Contact Details

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**Report
Approved**



Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

None

Annexes

Annex A: Summaries of Formal Enforcement Action 1st April 2018 to 31st March 2019

Annex B: Surveillance Activity

Annex C: Existing enforcement policy – Public Protection, Housing Services & Community Safety

Annex D: Enforcement policy - National Trading Standards Regional Investigation and National Trading Standards eCrime teams