
Meeting of Executive Member for Neighbourhood Services and Advisory Panel

7th December 2006

Report of the Director of Neighbourhood Services

Street Environment Enforcement Policy

Summary

1. Street environment officers carry out enforcement in relation to environmental crime including fly tipping, littering, graffiti, fly posting and waste presentation. In terms of best practice and legal obligations any enforcement activity undertaken must be fair and consistent. The DEFRA statutory guidance introduced on the Clean Neighbourhoods and Environment Act 2005 require enforcement policies to be in place.
2. The purpose of this report is to ask Members to approve the Street Environment Enforcement Policy, and associated customer contract and to note the procedures concerning enforcement of litter, graffiti, fly posting and presentation of waste, and the enforcement provisions concerning juveniles.

Background

3. The Council has signed up to the Government's Enforcement Concordat. This sets out what businesses and others being regulated can expect from enforcement officers. It commits the Council and their officers to good enforcement policies and procedures and may be supplemented by additional statements of enforcement policy.
4. In addition the requirement for a local authority to have written and published enforcement policies can be found in Best Value Performance Indicators (BVPIs) and statutory requirements and guidance also require such policies. For example, BVPI 166 relating to environmental health and trading standards, and the Department of Food and Rural Affairs (DEFRA) statutory guidance relating the new powers introduced by the Clean Neighbourhoods and Environment Act 2005 (CN&EA).
5. The minimum criteria for an enforcement policy are that
 - it confirms that the authority is signed up to the Enforcement Concordat
 - it takes into account the guidance set out in 'The Code for Crown Prosecutors'

- it includes the criteria to be met before formal enforcement action is taken by the authority
 - it has formal endorsement of the authority's Members
 - it recognises and provides for situations where there is a shared enforcement role
 - it takes into account the particular interests of consumers within the authority's area including business owners, employees and the public
6. Members approved an enforcement policy for trading standards and environmental health in 2001, and an updated policy for environmental health, trading standards and licensing in 2005. That policy has been subject to review by the head of environmental health and trading standards annually to ensure that it is relevant and meets the minimum criteria. Since the formation of street environment, officers have followed that policy.
 7. The proposed enforcement policy for street environment has been drafted to be consistent with the environmental health, trading standards and licensing enforcement policy whilst taking into consideration those enforcement duties that relate specifically to street environment, case law, and recent legislative changes such as the CN&EA.
 8. The proposed policy statement is attached as Annex A. This policy meets the minimum criteria detailed in paragraph 5 and recognises that other documents need to be referred to before taking a decision on the nature of the formal action to be taken. For example, the guidance produced by DEFRA. Attached as Annex B is the customer contract referred to in the enforcement policy. It is a requirement of an enforcement policy that service standards are published and performance reported against them. The customer contract in relation to street environment enforcement follows the format for environmental health and trading standards. These documents will be available on the CYC web. It is proposed that this will compliment the Street Scene Review Customer contract.
 9. Members were advised in the report on CN&EA 2005 – Fixed Penalty Notices (FPN) on 18th October 2006 that this report would also provide information as to the enforcement procedures for areas such as littering, graffiti, waste presentation, and fly posting. Attached as Annex C are flow charts which outline the manner in which such enforcement activity is to be undertaken to encompass the ability to issue fixed penalty notices. The CN&EA 2005 increased the penalties for offences in relation to fly tipping in line with the Government's desire to take a tougher stance on environmental crime and stresses the seriousness of disposing of waste illegally. The maximum penalty on summary conviction has increased from £20,000 to £50,000 and the maximum term of imprisonment on conviction on indictment for non hazardous waste to five years. Reports of fly tipping will be investigated in accordance with the enforcement policy statement with a view to prosecution due to their more serious nature.

10. Specific guidance has been issued by DEFRA in relation to issuing fixed penalty notices to juveniles. The purpose being to ensure that local authorities act in accordance with their duty under the Children Act 2004 to discharge their functions having regard to the need to safeguard and uphold the welfare of children. A report was brought to Members on 14th January 2004 about 'Tackling Environmental Crime – Litter Enforcement' and Members approved the policy for issuing fixed penalty notices for the offence of littering. This included references to those over 10 years and under 18 years of age. The new DEFRA guidance recommends different procedures when dealing with 16 and 17 year olds, and children between 10 and 15. Furthermore, when a FPN has been issued local authorities should always inform the Youth Offending Team(YOT) for the area where the young offender lives. Local authorities also need to work with the Youth Offending Teams when dealing with persistent young offenders, those young offenders for whom FPNs are not suitable and young offenders who fail to pay FPNs. Following discussions with the Head of the YOT(York), neighbouring authorities, and members of the Criminal Damage Task Group (including police) a revised procedure for dealing with juveniles, taking into consideration DEFRA guidance is attached as Annex D. This procedure would be applicable in relation to FPNs issued to juveniles regardless of the alleged offence.

Consultation

11. The proposed policy has been drawn up in line with the Enforcement Concordat taking into account specific guidance and accepted practices. A meeting of the Yorkshire and Humberside Environmental Working Group was held on 27th October 2006 to discuss enforcement issues including consistency of enforcement and enforcement against juveniles. The proposed enforcement policy and practices for street environment are consistent with the policy and practices throughout the region.

Option

12. The options for members are:
 - a) To approve the proposed enforcement policy statement for street environment together with the associated customer contract as detailed in Annexes A and B, and

To note the content of the procedures detailed in Annexes C and D.
 - b) Not to approve the enforcement policy statement for street environment.

Analysis

13. The advantage of the proposed enforcement policy statement is that the

Council will have an appropriate and consistent enforcement policy for street environment. In doing so the Council will be meeting its legal obligations.

14. The advantage of the procedures described in Annexes C and D are that they are consistent in approach with national guidance and other local enforcement agencies, and fulfil the Council's legal obligations.
15. If the enforcement policy statement was not approved the Council would not be meeting its legal obligations.

Corporate Priorities

16. The enforcement policy statement and the associated procedures support the Council's corporate objectives of creating a safer city and improving quality and sustainability. The aim of the enforcement policy and associated procedures for dealing with environmental crime is at one with the corporate priorities; - to improve the actual and perceived condition and appearance of the city's streets, housing estates and publicly accessible spaces, and reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.
17. The policy and procedures support the Neighbourhood Pride initiatives, and also tie in with the outcomes of the Street Scene Review.

Implications

18.
 - **Financial** – To be met from existing budgets as there are no significant implications from this report.
 - **Human Resources (HR)** – There are no human resources implications.
 - **Equalities** – There are no equalities implications other than those around the issuing of FPN's to juveniles and these have been taken into account in the procedure drawn up.
 - **Legal** – An appropriate enforcement policy is necessary to avoid 'abuse of power' challenges in enforcement actions, including prosecutions taken by the Council.
 - **Crime and Disorder** – No additional implications.
 - **Information Technology (IT)** – None.
 - **Property** – None.
 - **Other** – None.

Risk Management

19. There are no known risks.

Recommendations

20. That the Advisory Panel advise the Executive Member to approve the enforcement policy statement and associated customer contract for street environment (Annexes A and B) outlined in paragraph 12.

Reason: This will comply with the Council's obligations in relation to when, why and how enforcement action is taken by street environment.

21. That the Advisory Panel advise the Executive Member to note the content of the enforcement procedures in relation to the Clean Neighbourhoods and Environment Act 2005 and enforcement in relation to juveniles (Annexes C and D) outlined in paragraph 12.

Reason: These procedures follow the guidance issued by DEFRA and relate to consistency of enforcement.

Contact Details

Author:

Author's name: Liz Levett
Title: Acting Street Environment Manager
Dept Name: Neighbourhood Pride Unit
Tel No: 1825

Chief Officer Responsible for the report:

Chief Officer's name: Andy Hudson
Title: Assistant Director (Neighbourhoods)

Report Approved **Date** 6/11/06

Co-Author's Name: Zoe Burns
Title: Head of Neighbourhood Pride
Dept Name: Neighbourhood Pride Unit
Tel No: 1817

Report Approved **Date** 6/11/06

Specialist Implications Officer(s) *List information for all*

<i>Implication ie Financial</i>	<i>Implication ie Legal</i>
<i>Name</i>	<i>Name</i>
<i>Title</i>	<i>Title</i>
<i>Tel No.</i>	<i>Tel No.</i>

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

All relevant background papers must be listed here.

- Meeting of Executive Member for Environment and Sustainability and Advisory Panel 14th September 2005 – The Environmental Health, Trading Standards and Licensing Enforcement Policy 2005
- The Enforcement Concordat
- BVPI 166
- DEFRA Guidance for enforcement of CN&EA.
- Meeting of the Executive Member for Neighbourhood Services and Advisory Panel 18th October 2006 – Clean Neighbourhoods and Environment Act 2005 – Fixed Penalty Notices

Annexes

Annex A – Street Environment Enforcement Policy

Annex B – Street Environment Customer Contract

Annex C – Flow Charts of Procedures relating to CN&EA

Annex D – Procedure in relation to FPNs and juveniles