
Executive

27 September 2018

Report of the Corporate Director of Director of Economy and Place

Portfolio of the Executive Member for Transport & Planning, Executive Member for Culture, Leisure & Tourism and Executive Member for Housing & Safer Neighbourhoods

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 2017-18 by:-

- Public Protection (Environmental Health, Trading Standards and Licensing)
- Housing Services
- Community Safety
- National Trading Standards Regional Investigation and National Trading Standards eCrime teams

Please note, there are other services such as Planning enforcement which are subject to separate policies and which are reported elsewhere.

2. The highlights include:-

- 64 years imprisonment (5 years suspended)
- £21k in fines
- 1060 hours of unpaid work
- £311k in compensation for victims

- £3.3m in proceeds of crime confiscation orders
- £98k in costs awards

Recommendations

3. That the Executive Members approve the report.

Reason: To provide oversight to the activity undertaken in 2017-18, and fulfil the requirement for an annual review under the Public Protection, Housing Services and Community Safety enforcement policy and meet the requirement of the Office of Surveillance Commissioners 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.
8. For completeness, the existing enforcement policy – Public Protection, Housing Services & Community Safety is appended at Annex C and the enforcement policy - National Trading Standards Regional Investigation and National Trading Standards eCrime teams at Annex D.

Public Protection

9. 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.

10. The priorities for 2017-8 were as follows:-

- Ensuring businesses meet food safety requirements

There is a separate, statutory food plan (approved by the Executive Member for the Environment) 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
- 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 (minimum age 18). It 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 only

carry out activity in response to complaints and intelligence about particular problem businesses.

- Ensuring businesses are meeting their licensing obligations
11. Please note, none of the above is of greater priority than any other. The enforcement activity shown in Annex A demonstrates that officers have been working in accordance with these priorities.
 12. Similar priorities remain for 2018-9, and our approach will also be as described above.

Housing Services

13. 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.
14. 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. There has been a raft of new legislation in this area aimed at raising standards, dealing with the poorest end of the sector and most notably extending the definition of HMOs that need licensing effective from 1st October 2018. It is anticipated that this will increase the workload of the team from actively licensing 480 properties to around 1200 properties¹.
15. Following the approval of the Enforcement Policy last year, the team has also been using the provisions introduced by the Housing and Planning Act 2016 which enabled the council to consider Civil Penalty Notices as an alternative to prosecution. Fines up to £30k can be levied for certain offences. We have also been actively working more closely with statutory partners to tackle issues relating to modern slavery. Joint working has enabled the team to focus on some of the worst properties in the city.

¹ See Executive Member for Housing and Safer Neighbourhoods report below for more information about the revised implementation policy for HMO licensing

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=932&MIId=10869&Ver=4>

Community Safety

16. The Neighbourhood Enforcement Team forms part of the Community Safety Hub. It consists of 10 officers, working across three geographic 'patches', chosen to align with North Yorkshire Police's Neighbourhood Policing boundaries to assist with joint working.
17. The remit of the team is to tackle enviro crime and low level anti-social behaviour (ASB) including: domestic noise nuisance, flytipping, 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.
18. 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.
19. Ward funding has been allocated for mobile CCTV to assist the Neighbourhood Enforcement Team in evidence gathering for prosecutions. The team are currently working through the process to procure the right equipment and ensure that GDPR compliance is achieved.

National Trading Standards teams

20. 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

21. 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.

Options and analysis

22. There are no options and analysis associated with this report as this is a review of activity undertaken.

Council Priorities

23. 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

24. **Financial:** There are no financial implications associated with this report.
25. **Human Resources:** There are no Human Resources implications associated with this report.
26. **Equalities:** There are no equalities implications associated with this report

27. **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.
28. **Crime and Disorder:** Formal enforcement action contributes to reducing anti social behaviour and dishonest trading.
29. **Information Technology (IT):** There are no IT implications associated with this report.
30. **Other:** There are no other implications associated with this report.

Risk Management

31. 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**



Date

Specialist Officer Implications: None
Wards Affected:

All

Background Papers:

None

Annexes

Annex A: Summaries of Formal Enforcement Action 1 March 2017 to 31 March 2018

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

Annex A: Summaries of Formal Enforcement Action 1st March 2017 to 31st March 2018

Public Protection (including Environmental Health, Trading Standards and Licensing)

Defendant	Legislation	Nature of Case	Penalty	Costs
Hayati Kucokkoylu	Environmental Protection Act 1990	Breach of noise abatement notice at Macumba	Six-month conditional discharge. £20 victim surcharge.	£1,159.43
Jeanette Alice Christina Garrard	Food Safety and Hygiene (England) Regulations 2013	Breaches of food safety requirements	£100 fine £30 victim surcharge.	£817.58
Trevor Douglas	Food Safety and Hygiene (England) Regulations 2013	Breaches of food safety requirements	£1066 fine £106 victim surcharge	£500
Gary Michael Anderson *Joint investigation with Community Safety – see below	Food Safety and Hygiene (England) Regulations 2013 Consumer Protection from Unfair Trading Regulations 2008	Breaches of food safety requirements Displaying false food hygiene rating	£4400 fine £170 victim surcharge	£5054.32
Ben Buck Commercials Ltd	Consumer Protection from Unfair Trading Regulations 2008	Sale of falsely described van	£4500 fine £170 victim surcharge	£4020
Benjamin William Buck	Consumer Protection from Unfair Trading Regulations 2008	Sale of falsely described van	£294 fine £30 victim surcharge	£0
Ashley Wright	Consumer Protection from Unfair Trading Regulations 2008	Sale of falsely described van	£190 fine £30 victim surcharge	£0
Rehan Farooq	Town Police Clauses Act 1847	Plying for hire and driving without insurance	£200 fine 6 penalty points £30 victim	£608.34

			surcharge	
Kalid Mahmood	Town Police Clauses Act 1847	Private hire driver illegally on taxi rank	£150 fine £30 victim surcharge	£220
Sohail Ahmed	Town Police Clauses Act 1847	Illegal plying for hire and driving without insurance	£860 fine 6 penalty points £66 victim surcharge	£478.20
Ian Limbert	Consumer Protection from Unfair Trading Regulations 2008 Town Police Clauses Act 1847	Breaching duty to trade fairly during course of a taxi journey Illegal Plying for hire	Licence revoked in last financial year £200 fine £30 victim surcharge	£518
Ndiasse Faye	Trade Marks Act 1994	Sale of fake mobile telephone and tablet covers	12 week prison sentence, suspended for 12 months 300 hours unpaid work £80 surcharge.	£1200
Francis David Kerr	Proceeds of Crime Act 2002	Confiscation order following sale of fake jewellery.	Order for £75,059.88 payable within 3 months (2 years imprisonment in default).	£15,000
Robert Montgomery	Consumer Protection from Unfair Trading Regulations 2008	Breaching duty to trade fairly in the course of building an extension	10 month suspended sentence for 2 yrs £5870 compensation	£800
Jeremy Paul White	Consumer Protection from Unfair Trading Regulations 2008	Breaching duty to trade fairly in the course of building an	13 month prison sentence	£3000

		extension	suspended for 2 years. £8k compensation	
Jason Hoyland	Consumer Protection from Unfair Trading Regulations 2008	Director of company making false claims in the course of cold calling selling double glazing and guttering	10 month prison sentence suspended for 2 years. 250 hours of unpaid work Disqualified from running a company for 5 years £10,125 compensation	£6000
Stella Sowe	Consumer Protection from Unfair Trading Regulations 2008	Salesperson making false claims in the course of selling double glazing and guttering	150 hours of unpaid work	£1000

3 x simple cautions were issued for breaches of food safety requirements

3 x simple cautions were issued for selling knives to a person under the age of 18.

2 x simple cautions for offering to supply unsafe toys

3 x simple cautions for transporting animals in a way likely to cause unnecessary suffering to farm animals

1 x simple caution for a breach of health and safety requirements

2 x taxi/private hire drivers licences revoked – no longer considered 'fit and proper' persons to hold a licence.

29 x fixed penalty notices for smoking in a public place.

*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.

National Trading Standards Regional Investigation and eCrime Team

Defendant	Legislation	Nature of Case	Penalty	Costs
Peter HALL	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	15 years imprisonment	
Claire HALL	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	4 years imprisonment	
Collette FERROW	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	4 years imprisonment	
Bilal ZAIDI	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	5 years imprisonment	
Kerry MILLS	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	5 years imprisonment	
Liam HINCKS	Conspiracy to defraud	Operation Dougal. Involvement in a variety of 'Copycat' websites purporting to provide government services.	4½ years imprisonment	
Thomas SCOFFIN	Conspiracy to defraud	Operation Funder. Director of a vacuum cleaner servicing/sales company that made false claims and used aggressive practices to secure sales.	6 years imprisonment	
Linda SCOFFIN	Conspiracy to defraud	Operation Funder. Involvement in a	3 years imprisonment	

		vacuum cleaner servicing/sales company that made false claims and used aggressive practices to secure sales.		
Paul WRAY and Claire WRAY	Proceeds of Crime Act 2002	Operation Flip. Confiscation hearing following earlier conviction for mis selling /aggressive practices with the sale of mobility mattresses.	£917,287 Confiscation Order (including £20,757 to be paid as compensation to victims)	
Marcus ASHCROFT-JONES	Fraud Act 2006, Companies Act 2006 and Proceeds of Crime Act 2002	Operation Judy. Advertising on-line job vacancies for non existent jobs and charging monies for DBS checks that were not provided for those jobs. Money laundering	5 years imprisonment and £3,654.54 to be paid as compensation to victims.	
Darryl JUSTICE	Proceeds of Crime Act 2002	Operation Judy. Opened a bank account for Marcus ASHCROFT-JONES to facilitate money laundering.	80 hours unpaid work.	
Nicholas PRINGLE	Proceeds of Crime Act 2002	Operation Judy. Opened a bank account for Marcus ASHCROFT-JONES to facilitate money laundering.	80 hours unpaid work.	
Narendra VADGAMA	Consumer Protection from Unfair Trading Regulations 2008	Operation Kuki. On-line cold calling computer servicing business making false claims regarding need for repairs and association with companies such as Microsoft	12 month imprisonment suspended for 18 months. Six months 8pm to 8am curfew.	
Kelly DOBSON	Conspiracy to defraud	Operation Angel 2. Conspiring to	3 years imprisonment	

		defraud customers of kitchen retailing businesses operating out of Maple Mill in Oldham		
Anthony EDDLESTONE	Conspiracy to defraud	Operation Angel 2. Conspiring to defraud customers of kitchen retailing businesses operating out of Maple Mill in Oldham	27 months imprisonment	
Stephen FORD	Consumer Protection from Unfair Trading Regulations 2008	Operation Angel 2. False statements made by kitchen retailing businesses operating out of Maple Mill in Oldham	30 weeks imprisonment	
Vance MILLER	Proceeds of Crime Act 2002	Operation Angel. Confiscation proceedings taken against 'an absconder' arising from a case brought against those involved in selling kitchens from Maple Mill in Oldham	£2,357,761.50 Confiscation Order from which £223,703.06 to be paid as compensation to victims	
Martin SERSEN	Proceeds of Crime Act 2002	Operation Angel. Confiscation proceedings arising from a case brought against those involved in selling kitchens from Maple Mill in Oldham	£58,591.61 Confiscation Order	
Nicola BRODIE	Proceeds of Crime Act 2002	Operation Angel. As above.	£133,005.53 Confiscation Order	
Matthew LEAK	Proceeds of Crime Act 2002	Operation Angel. As above.	£2,570 Confiscation Order	
David HOURIGAN	Proceeds of Crime Act 2002	Operation Angel. As above.	£93,625 Confiscation Order	
Mohammed USMAN	Consumer Protection from Unfair Trading Regulations 2008	Operation Diesel. Director of a home improvement	12 month imprisonment suspended	£17,778.59

		company that made false claims regarding the availability of government grants	for 2 years. £39,752 compensation to victims.	
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Housing Services

Anti Social Behaviour

Number of Cases	Legislation	Nature of Case	Penalty	Costs
5	Housing Act 1985	Possession Application	Notice of Seeking Possession & Monitor	No court action
1	Housing Act 1985	Possession Application	Instructed to withdraw possession claim	No order for costs
	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	No order for costs
3	Housing Act 1985	Possession Application	Suspended Possession Order granted	No order for costs – Legal Aid in place
5	Housing Act 1985	Possession Application	Suspended Possession Order granted	£355.00
3	Housing Act 1985	Possession Application	Possession Forthwith	No order for costs – Legal Aid in place
	Housing Act 1985	Possession Application	Possession Forthwith	
2	Housing Act 1985	Warrant Application	Application dismissed – evicted	No order for costs – Legal Aid in place
2	Housing Act 1985	Warrant Application	Application granted – not evicted	No order for costs – Legal Aid in place
4	Anti Social Behaviour, Crime & Policing Act 2014	Injunction Application	Final Order granted with power of arrest	No order for costs
1	Anti Social Behaviour, Crime & Policing Act 2014	Premises Closure	Final Order granted	No order for costs

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

Number of Cases	Legislation	Nature of Case	Penalty	Costs
16	Housing Act 1985	Possession Application	Outright Possession Order	£394.50
2	Housing Act 1985	Possession Application	Outright Possession Order	No order for costs
58	Housing Act 1985	Possession Application	Suspended Possession Order (SPO)	£394.50
1	Housing Act 1985	Possession Application	Suspended Possession Order (SPO)	No order for costs
7	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	£394.50
10	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	No order for costs
0	Housing Act 1985	Possession Application	Application dismissed	No order for costs
25	Housing Act 1985	Application to suspend warrant	Warrant suspended	£121.00
4	Housing Act 1985	Application to suspend warrant	Warrant suspended	No order for costs
3	Housing Act 1985	Application to suspend warrant	Application dismissed – evicted	£121.00
0	Housing Act 1985	Application to suspend warrant	Application dismissed – evicted	No order for costs

Other Possessions (CYC)

Number of cases	Legislation	Nature of Case	Penalty	Costs
7	Housing Act 1996	Possession from Temporary Accommodation	Possession Forthwith	£394.50
2	Housing Act 1996	Introductory Tenancy	Possession Forthwith	£394.50
5	Housing Act 1996	Possession for Trespass	Possession Forthwith	£424.50

Penalty Meanings:

Notice of Intention to Seek Possession – is a notice served on the customer to advise that CYC are intending to seek possession of their property. This notice has to be delivered before any court actions can be made.

Outright Possession order – Made by the County Court to advise the customer to leave the property by the date given in the order. If the customer has not left the CYC apply to the court for a warrant for the bailiffs to evict the customer.

Possession Forthwith – Order made by the County Court for an action to be done as soon as reasonably possible.

Application Dismissed - Eviction – Order made by the County Court to advise that CYC can continue directly to eviction of the customer as their application to remain has been refused.

Adjournment with Liberty to Restore – Order made by the County Court that the case isn't active at this time however it still exists within the court records. These are generally for a period of 12mths in our experience. However should the customer fail to maintain the detail, such as keep a clear rent account, then the case can be brought back to court at the same position it was adjourned.

Suspended Possession – Order made by the County Court that means the customer may remain at their home as long as they keep to the terms and condition of the order such as pay current rent plus a fixed amount off the arrears at a certain frequency.

Warrant Suspended – Order made by the County Court to stop the Bailiffs attending the customers property to evict them. These are generally suspended on terms to do something such as pay rent plus arrears. The order will be suspended until spent or fails.

Withdraw Possession Case – CYC advise the County Court that they wish to withdraw the application for possession of a property due to exceptional circumstances.

**Please note that prior to all actions taken the Pre-Court Protocol must be adhered to. This explains to the customer the conduct of the authority and sets out the steps the court would normally expect CYC to follow before commencing court proceedings.*

Housing Standards and Adaptations Service

Defendant	Legislation	Nature of Case	Penalty	Costs
Landlord	Section 30 of Housing Act 2004	Non – Compliance with an Improvement Notice	Civil Penalty Notice upheld	£23,375
Mr Taleb Tash	Section 72 Housing Act 2004	Having control of managing a House in Multiple Occupation (HMO) which is required to be licensed under Section 61(1) but is not so licensed.	Fine £1500	£3912.64 plus £125 statutory surcharge
MR Aligul	Section 72 of the Housing	Having control of	Each fined	Each asked to

Kala and Mrs Gulten Kala	Act 2004	managing a House in Multiple Occupation (HMO) which is required to be licensed under Section 61(1) but is not so licensed.	£1500	pay costs of £1175.78 and surcharge of £120
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1x further civil penalty notice on a letting agents for not displaying letting fees fine £1250 which was paid

4 x Prohibition Notices served for letting rooms which were too small/significant safety problems in two properties

6x improvement notices to tackle significant health and safety issues which can not be controlled by informal action or licensing conditions

Community Safety

Defendant	Nature of Case	Penalty	Costs
Youth A Under 18	Cycling on footpath and youth-related ASB, Chapelfields	Unconditional discharge, York Youth Court	N/A
Youth B Under 18	Breach of Community Protection Notice served for youth-related ASB, Chapelfields	Unconditional discharge, York Youth Court	N/A
Youth C Under 18	Breach of Community Protection Notice served for youth-related ASB, Chapelfields	Unconditional discharge, York Youth Court	N/A
Rudi Dear	Cruelty to animals	Disqualified from owning animals for 10 years – 200 hours community service and £85 court surcharge	£500
Leanne Dear	Cruelty to animals	Disqualified from owning animals for 10 years - £120 fine £30 surcharge and £500 costs	£500
Leanne Wyrill	Failing to comply with a dog control order.	12 month conditional discharge £30 surcharge	£300
Adam Winterburn	Breach of commercial waste duty of care responsibilities -	£307 fine, £30 court surcharge	£720

	builder/handyman		
David Grierson	Breach of commercial waste duty of care responsibilities - Carpet fitter	Conditional discharge - £20 court surcharge	£650
Christopher Smith	Breach of commercial waste duty of Care responsibilities - Collecting waste door to door without a licence	Community order 12 months, 100 hours £85 court surcharge	
James Johnson	Breach of commercial waste Duty of Care responsibilities - Garage owner	Fine of £140, victim surcharge £30	£412.65
Gary Anderson	Green Grocer – pests joint operation with Public Protection	See above	See above
Leigh Garside	Breach of commercial waste Duty of Care responsibilities - man with a van	Fine of £450, and £45 victim surcharge	£250
Paige Greenwood Broker for Leigh Garside	Breach of commercial waste Duty of Care responsibilities and Obstruction of an officer in the course of their duty.	Fine of £150, and £30 victim surcharge	£200
Ben Purver	Fly tipping a Christmas tree	Fine of £320, £32 victim surcharge	£300
Leigh Garside	Fly tipping man with a van	Fine of £450, and £45 victim surcharge	£250
Youth C Under 18	Littering	Fine £75	N/A
Raymond Warren	Littering	Fine of £150, and £30 victim surcharge	£150
Andrew Smith	Playing loud music – conviction led to eviction from his property as this gave a mandatory ground for possession	£100 fine, £30 victim surcharge	£130

Audrey Weston	Dog barking	£138.00 fine, £30 victim surcharge	£351.85
Wilfred Weston	Dog barking	£138.00 fine, £30 victim surcharge	£351.85
Rogers	Urinating in street	£70 fine, £30 victim surcharge.	£100
Potter	Urinating in street	£130 fine, £30 victim surcharge	£100.
Whiteley	Urinating in street	£120 fine, £30 victim surcharge.	£100
McGowan	Urinating in street	£220 fine, £30 victim surcharge and	£100
Alexander	Urinating in street	£220 fine, £30 victim surcharge	£100
Thomas Peacock	Urinating in street	£100 fine, £30 victim surcharge.	£100
Jack Cooper	Urinating in street	£100 fine, £30 victim surcharge.	£100
Stuart Smith	Urinating in street	£100 fine, £30 victim surcharge.	£100
Adam Winterburn	Unlawful waste carriage	£307 fine, £30 victim surcharge	£720
David Grierson	Unlawful waste carriage	Conditional discharge - £20 victim surcharge	£650
Christopher Smith	Unlawful waste carriage	community order 12 months, 100 hours community service, £85 victim surcharge	
Leigh Garside	Fly-tipping and breach of duty of care responsibilities - man with a van	£450 fine, and £45 victim surcharge	£250

41 x warnings, x 10 Notices and 4 Fixed Penalty Notices (FPN's) for community protection matters.

NB: Community Protection Notices were introduced under the Anti-Social Behaviour, Crime and Policing Act 2014. They are issued by Neighbourhood Enforcement Officers to individuals aged 16 or over or businesses/organisations in order to prevent any anti-social behaviour being caused by them impacting on the wider community's quality of life. Before a CPN can be issued officers must consider two things: that the conduct is having a detrimental effect, of a persistent or continuing nature on the quality of life of those in the locality and that it is unreasonable. A warning must be issued in the first instance. The Notice itself will set out: a requirement to stop doing specified things and/or a requirement to do specified things and a requirement to take reasonable steps to achieve specified results.

2 x notices and 3 FPNs for commercial waste inappropriately presented

6 x control orders obtained for dangerous dogs

5 x FPN's for dog fouling

4 x dog microchipping notices served

186 x Notices, and 5 FPN's for domestic waste inappropriately presented

55 x Notices, 17 FPN's and 4 x Simple Cautions for breach of domestic or commercial waste duty of care responsibilities.

7 x notices requiring removal of flyposting

4 x cautions, 14 x FPN's for fly tipping

13 x Litter FPN's issued

26 x noise abatement notices, and 2 cautions issued for noise

6 x notices in relation to control of pests

48 x stopped for urination by police – referred to team for enforcement

16 x Directions to leave land. 1 x Court Order

10 x Notices, 3 FPN's and 2 cautions for unlawful waste carriage

Annex B: Surveillance Activity

Team	Activity	Reason
Public Protection	Directed surveillance	Recording attempted 'test purchases' of age restricted products by children
Public Protection	Directed surveillance	Reviewing social media site for sales of cheap counterfeit tobacco
Public Protection	Covert Human Intelligence Source	Making 'covert' contact with seller of cheap counterfeit tobacco.
Public Protection	Communications Data Request	Investigation into unfair trading – details of 4 subscribers requested
Public Protection	Communications Data Request	Investigation into unfair trading – details of 4 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 5 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 7 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 2 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 19 subscribers requested
National Trading Standards	Communications Data Request	Investigation into unfair trading – details of 8 subscribers requested

Annex C - existing enforcement policy – Public Protection, Housing Services & Community Safety



Public Protection (Environmental Health, Trading Standards, Licensing), Housing and Community Safety Services

Enforcement Policy

This document is the enforcement policy for City of York Council's Public Protection (Environmental Health, Trading Standards, Licensing), Housing and Community Safety services. It sets out the key principles under which officers will seek to achieve compliance with the legislation enforced by these services.

In carrying out their duties officers will adhere to the principles of good enforcement set out in the Regulators' Code (2014) and other relevant codes of practice including those concerned with the investigation of offences or the prosecution of offenders.

All enforcement activity undertaken under this policy will have regard to the Human Rights Act 1998 and the European Convention of the Protection of Human Rights and Fundamental Freedoms.

Please note, whilst this policy acknowledges that officers will adhere to principles of good practice in their enforcement activity, it does not prescribe the way investigations will be conducted or the authorisation of surveillance activity. Furthermore, it does not include enforcement action by Planning, and Transport (including Parking services) which operate under their own guidance.

1.0 Introduction

The main purpose of the Public Protection, Housing and Community Safety 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 recognise that effective and well-targeted regulation is essential in achieving this.

We will ensure legal compliance by:

- Helping and encouraging businesses and individuals to understand and comply with the law.
- Responding proportionately to breaches of the law.

We want to achieve the following outcomes:

- Support economic growth, especially in small businesses, by ensuring a fair, responsible and competitive trading environment
- Protect the environment for future generations including tackling the threats and impacts of climate change
- Improve quality of life and wellbeing by ensuring clean and safe neighbourhoods
- Help people to live healthier lives by preventing ill health and harm, and promoting public health
- Ensure a safe, healthy and sustainable food chain for the benefits of consumers and the rural economy.

2.0 Economic Progress

We will carry out our activities in a way that supports those we regulate comply and grow, remembering that it is important to maintain a level playing field for all businesses to thrive.

We will 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.

References to costs and benefits include economic, social and environmental costs and benefits.

3.0 Risk Assessment

We will allocate our resources where they will be most effective by assessing the risks due to non-compliance with the law. The risk factors include:

- the potential impact on residents, consumers, business and the environment in failing to meet legal requirements.
- the likelihood of non-compliance taking into account matters such as:
 - the past history,
 - the systems a business has in place,
 - management competence of the business
 - and willingness to comply.

4.0 Advice and Guidance

We recognise that prevention is better than cure and will actively work with business and residents to advise on and assist with, compliance with the law.

In doing this we will ensure that:

Legal requirements are made available and communicated promptly upon request.

The information we provide will be in clear, concise and accessible language.

Advice will be confirmed in writing where necessary.

We will clearly distinguish between legal requirements and guidance aimed at improvements above minimum standards.

We will signpost towards additional business support services where appropriate.

Please note: there may be a fee payable for our advice. Where this is the case you will be informed and provided with details of the charge or an estimate if the exact fee is not known.

5.0 Inspections and Other Visits

All inspections and other visits to businesses will be undertaken after consideration of the risk the business poses if it fails to comply with the law (see paragraph 3.0 above), where the business has requested advice or where intelligence/information suggests that an inspection or visit is appropriate.

- Where we carry out inspections we will give feedback to the business on what the officer has found; this will include positive feedback to encourage and reinforce good practice.
- Where practicable we will co-ordinate inspections with other regulators to minimise the burden on businesses.
- Random inspection will be undertaken where government guidelines/ policies or a condition of a licence requires us to do so. A small amount of random inspections may also be undertaken to test our risk assessments or the effectiveness of any action we have taken.

6.0 Information Requirements

We will only ask businesses for information that is necessary after considering the cost and benefit to obtaining the information. Where possible we will share this information with our partners (taking account of data protection) to prevent the need for providing the information more than once.

7.0 Compliance and Enforcement Actions

We recognise that most businesses and individuals wish to comply with the law, however firm action will be taken against those who break or flout the law or act irresponsibly.

We will carry out all of our enforcement duties, including taking formal enforcement action (described below), in a fair, equitable and consistent manner. Whilst officers exercise judgement in individual cases, we will have arrangements in place to promote consistency including liaison with other agencies and authorities.

Formal enforcement action will only be considered and taken in the first instance in cases involving unfair practices against individuals or businesses, illegal sales of age restricted products, supply of counterfeit goods and other intellectual property crime, occupational health and safety, public safety, risk to public health (including food safety), health and safety in the home, statutory nuisances, animal health and welfare, damage to the environment, dog fouling, trading standards offences committed by doorstep sellers, breaches of licence conditions or operating without a licence when one is required and 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.

Where formal enforcement action is necessary, we will consider the most appropriate course of action (from the range of sanctions and penalties available) with the intention of: -

- Aiming to change the behaviour of the offender
- Aiming to eliminate any financial gain or benefit for non-compliance
- Being responsive and considering what is appropriate for the particular offender and issue involved, including punishment and the public stigma that may be associated with criminal convictions
- Being proportionate to the nature of the offence and harm caused
- Aiming to restore the harm caused by non-compliance
- Aiming to deter future non-compliance.

When formal enforcement action is taken:

- We will take all reasonable steps to discuss the circumstances of the case, unless immediate action is required e.g. to prevent the destruction loss of evidence or there is an imminent risk to the environment, public health or health and safety. This discussion may be in the form of an interview under caution if a prosecution is being considered. We will provide the opportunity for further

dialogue about the proportionality or consistency of our action upon request.

- Where immediate formal enforcement action is taken, which will usually be the service of a written notice, reasons for such action will be given at the time (if possible) and confirmed in writing within 10 working days.
- Where there are rights of appeal against formal enforcement action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.
- Clear reasons will be given for any formal enforcement action taken, and confirmed in writing.

For the purpose of this policy 'formal enforcement action' includes serving a legal notice e.g. an improvement, suspension, prohibition, fixed penalty or abatement notice and civil penalty notices to letting agents and landlords, the seizure of goods, suspension or revocation of a licence, a formal 'simple' caution, prosecution or other court action.

If the formal enforcement action being considered is a prosecution we will also consider a number of additional factors in line with the Code for Crown Prosecutors and any other nationally recognised guidance such as the Enforcement Management Model published by the Health and Safety Executive. These factors, not an exhaustive list, may include the following:

- The seriousness of the alleged offence
- The history of the party concerned
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers
- Whether it is in the public interest to prosecute
- The realistic prospect of conviction
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective

- The views of any complainant and other persons with an interest in prosecution.

These factors are NOT listed in order of significance. The rating of the various factors will vary with each situation under consideration.

When formal enforcement action is being considered for an acquisitive crime i.e. the acquiring of assets (including money) from offences such as fraud or intellectual property crime, we will undertake a financial investigation into the circumstances of the case. In serious cases this may result in the seizure of a suspect's cash and legal proceedings for money laundering and confiscation of assets under the provisions of the Proceeds of Crime Act 2002.

8.0 Accountability

We will be accountable for the efficiency and effectiveness of our activities:

- We shall provide businesses and individuals with effective consultation and opportunities for feedback on our service.
- Officers will be courteous, fair and efficient at all times, and will identify themselves by name and, where appropriate, identity card.
- Any complaints about the way you have been treated will follow the City of York Council's complaints procedure 'Have Your Say'. A copy of the complaints procedure can be obtained from our website at www.york.gov.uk

9.0 Application of our enforcement policy

All officers will have regard to this document when making enforcement decisions.

Any departure from this policy must be exceptional, capable of justification and be fully considered by the head of service before a final decision is taken. This proviso shall not apply where a risk of injury or to health is likely to occur due to a delay in any decision being made. In cases of emergency or where exceptional circumstances prevail, the chief executive may suspend any part of this policy where it is necessary to achieve the effective running of the service and/or where there is a risk of injury or to health of employees or any members of the public.

10.0 Review

There will be an annual review of the action taken under this policy. This document will also be subject to review as and when required. Improvements will be made if there are any changes in legislation or in local needs.

If you have any comments please contact the Head of Public Protection, Head of Housing or Head of Community Safety by calling 01904 551550 or by writing to City of York Council, West Offices, Station Rise, York, YO1 6GA or email to ycc@york.gov.uk

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 مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

Annex D –enforcement policy - National Trading Standards Regional Investigation and National Trading Standards eCrime teams



National Trading Standards Yorkshire and the Humber Regional Investigations Team and National Trading Standards eCrime Team Enforcement Policy

This document is the enforcement policy for the National Trading Standards Yorkshire and the Humber Regional Investigations Team and National Trading Standards eCrime Team (NTS RIT and eCrime) hosted by City of York Council on behalf of the National Trading Standards Board (NTSB)

The purpose of NTS RIT and eCrime is to tackle the scams and complex cases of fraud perpetrated on a regional and national basis in an effective way that is not readily achievable by individual local authorities. NTS RIT and eCrime investigate individual cases and practices referred to them by local authority trading standards services and through the tasking arrangements of NTSB.

The purpose of NTS RIT and eCrime is not to provide advice, information or carry out inspections of regulated businesses. NTS RIT and eCrime are charged with taking on major investigations, and in appropriate cases, bringing them to a just conclusion through the courts using both criminal and civil sanctions.

NTS RIT and eCrime will have regard to The Code for Crown Prosecutors issued by the Director of Public Prosecutions, the Regulators' Code and other relevant codes including those concerned with the investigation of offences.

NTS RIT and eCrime 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 head of regional investigations considers necessary within the scope of the purpose of NTS RIT and eCrime. For the purposes of this policy formal enforcement action includes prosecution, civil action, confiscation proceedings or the issue of a simple caution.

Formal enforcement action under this policy will be in the public interest and will:

- aim to change the behaviour of the offender;
 - aim to eliminate any financial gain or benefit from crime/non-compliance;
 - be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
 - be proportionate to the nature of the offence and the harm caused;
 - aim to restore the harm caused by the crime/regulatory non-compliance, where appropriate;
- and
- aim to deter future offending/non-compliance.

All enforcement activity undertaken under this policy will have regard to the Human Rights Act 1998 and Equalities Act 2010.

