

**Decision Session – Cabinet Member for
Crime and Community Safety**

7 February 2012

Report of the Assistant Director of Communities
& Neighbourhoods

Review of Street Trading Enforcement Controls

Summary

1. The purpose of this report is to inform the Cabinet Member of the existing legislative controls on street trading and to seek approval to amend the Enforcement Policy for Environmental Health, Trading Standards, Licensing, and Street Environment and Enforcement Services to highlight that formal action will be taken against illegal activities.

Background

2. In the autumn of 2011 the council received several complaints about 'Gag Mag' magazine sellers operating in the city centre. Most complaints were of a similar nature in that the sellers were being aggressive and intimidating to members of the public. Officers from trading standards investigated but were unable to substantiate the allegations. The officers did approach and give suitable advice to several sellers. Following these complaints the Cabinet Member requested that officers conduct a review of the legislative controls on street trading in York.

Street Trading Legislation

3. Street trading is defined as selling or offering to sell articles in the street and street traders require the consent of the Council to operate lawfully in York. However, there are several exemptions to this requirement and there are some related activities that are not controlled at all. Street trading and related activities includes: markets, charitable collections, sale of periodicals, face to face collections, buskers, pedlars and leaflet distributors.

4. Annex 1 to this report identifies the current issues, the legal requirements and enforcement responsibilities.

Enforcement Policy

5. The current Enforcement Policy for Environmental Health, Trading Standards, Licensing, and Street Environment and Enforcement Services (the policy) was approved by the Executive Member for Neighbourhoods in 2008. The policy details the circumstances under which formal enforcement action, which includes prosecution, will be taken 'in the first instance'. These circumstances however, do not include illegal street trading activities and where legal action has been taken under the scope of the policy it has been under the provision 'any other case in which a head of service considers formal action is necessary'.
6. Annex 2 to this report is an amended policy which has updated the circumstances under which formal action will be taken 'in the first instance' and is now clear that this includes illegal street trading activities.

Consultation

7. City of York Council departments were consulted regarding this report, these include, City Centre Manager, Safer York Partnership, Food and Safety Unit Manager, Trading Standards Manager, Environmental Protection Manager and Head of Environmental Enforcement and Parking Services. All are in agreement with the proposed amendments to the policy.

Options

8. To approve the amended Enforcement Policy
9. Not to approve the amended Enforcement Policy.

Analysis

10. Approving the option in paragraph 8 will clarify the Council's approach to tackling illegal street trading activities. Illegal street trading undermines legitimate business activities in York, gives the perpetrator an unfair commercial advantage and damages the reputation of York.
11. Approving the option in paragraph 9 will still allow action to be taken against illegal street traders but this will be at the discretion

of a head of service. This has the potential for a legal challenge on the grounds of 'lack of consistency' and abuse of process'.

Council Plan

12. Three council priorities are "Protect jobs and grow the economy", "Protect vulnerable people" and "Protect the environment". Formal enforcement action is often 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:** The revised Enforcement Policy has been subject to an equalities impact assessment.
16. **Legal:** There are no legal implications associated with this report
17. **Crime and Disorder:** Formal enforcement action taken by environmental health, trading standards and licensing services 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.

Recommendations

21. That the Cabinet Member note the report and approve amended Enforcement Policy set out in Annex 2.

Reason: To improve transparency in taking formal enforcement action against illegal street traders.

Contact Details

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**Report
Approved**



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2012

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services Enforcement Policy (June 2008)

Annexes

Annex 1: Current street trading/activity issues.

Annex 2: Amended Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services Enforcement Policy