
Executive Member for Economy and Strategic Planning 22 September 2020

Report of the Assistant Director for Planning and Public Protection

Review of Enforcement Activity – Housing and Community Safety

Summary

1. The purpose of this report is to enable the Executive Members to review the formal enforcement action undertaken in 2019-20 by:-
 - Housing Services
 - Community Safety
2. Examples of the action taken includes housing repossessions for anti-social behaviour and a whole host of prosecutions and other actions for other anti-social behaviour such as fly tipping and littering, 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 ensure enforcement activity undertaken in 2019-20 has been reviewed in accordance with the council's enforcement policy.

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.
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.

Housing Services

7. 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. This includes taking action on council tenants not complying with their obligations including paying rent.
8. The Housing Standards and Adaptations team regulates standards in the private sector and in particular Houses in Multiple Occupation (HMO's). All HMO's are issued with a standard range of conditions relating to the licence holder, property and management. In addition some where they fail other standards are issued with conditions with a time period to meet those conditions. These conditions relate to:
 - Minimum room size for sleeping
 - level of kitchen amenities having regard to the number of occupants/households
 - level of bathroom facilities having regard to the number of occupants/households
 - level of toilet and wash hand facilities, having regard to the number of occupants/households
 - heating, energy efficiency,
 - carbon monoxide detection and
 - training

Community Safety

9. 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.
10. 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.
11. 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.

Consultation

12. 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

13. There are no options, the report is for information. Members are asked to note the action taken with comments as necessary.

Analysis

14. The report ensures that formal enforcement action taken by Housing and Community Safety in 2019-20 has been reviewed as required.

Council Priorities

15. The legal actions support the Council's priorities in respect of the following:
 - Good health and wellbeing
 - Well paid jobs and an inclusive economy
 - A greener and cleaner city
 - Safe communities and culture for all

Implications

16. **Financial:** There are no financial implications associated with this report.
17. **Human Resources:** There are no Human Resources implications associated with this report.
18. **Equalities:** There are no equalities implications associated with this report although many of the activities are aimed at helping vulnerable people and challenging inequality.
19. **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.

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

Risk Management

23. 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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Chief Officer Responsible for the report:

Mike Slater,
Assistant Director for Planning and Public Protection

Report Approved



Date 11/09/2020

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

City of York Council Public Protection, Housing and Community Safety Enforcement Policy

<https://www.york.gov.uk/downloads/download/38/environmental-health-and-trading-standards-enforcement-policies>

Annexes

Annex A: Summaries of Formal Enforcement Action 1st April 2019 to 31st March 2020

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

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

Housing Services

Rent arrears

Number of Cases	Legislation	Nature of Case	Penalty	Costs
11	Housing Act 1985	Possession Application	Outright Possession Order	£394.50
0	Housing Act 1985	Possession Application	Outright Possession Order	No order for costs
40	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
13	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	£394.50
17	Housing Act 1985	Possession Application	Adjourned generally with liberty to restore	No order for costs
1	Housing Act 1985	Possession Application	Application dismissed	No order for costs
22	Housing Act 1985	Application to suspend warrant	Warrant suspended	£121.00
0	Housing Act 1985	Application to suspend warrant	Warrant suspended	No order for costs
4	Housing Act 1985	Application to suspend warrant	Application dismissed – evicted	£121.00
5	Housing Act 1985	Application to suspend warrant	Application dismissed – evicted	No order for costs

122 x Licenses for HMOs were issued - bringing the total number at the end of that year to 1018.

290 x licences were reviewed to impose new conditions.

47 x Housing Notices served including 3 suspended Prohibition Notices and one immediate prohibition notice preventing the use of at least one room in a house.

3 x Civil Penalty Notice's on three landlords who should have licensed their properties. Of which, one CPN for £30k was issued and in line with our early payment policy a £20k fine was received. The property has also been licensed and brought up to standard. The second and third CPNs were again issued for a property not being licensed. In total, a £30k penalty fine was issued and in line with a policy the payment was made early.

1 x Criminal Behaviour Order was issued – Landlord ordered to find a fit and proper person to manage his portfolio of 7 properties. This follows three successful prosecutions of the same landlord for failing to apply for a HMO license (x2) and for non –compliance of an improvement notice and breaches of management regulations at another property

Other activity (not formal enforcement action under the enforcement policy)

Responded to one appeal to the First Tier Tribunal. A Landlord submitted a licence application that all rooms met the minimum room size standards but having visited the property the officer found one of the rooms to be too small and varied the licence accordingly. The landlord appealed the variation to the first tier tribunal on the grounds that whilst the room did not meet the minimum size that was inexpensive to rent and therefore the council should not enforce the law. The Council response to the tribunal confirmed and gave reasons that we would contest the appeal. This led the applicant to withdraw his appeal

Community Safety

Neighbourhood Enforcement Team

Defendant	Legislation	Nature of case	Penalty	Costs
George Tucker	Town and Country Planning Act 1990/Highways Act 1980	Fly posting – city wide	Fine £1200 surcharge £30	09/04/2019 Costs £1000
Joyce Carlisle	Ant-Social Behaviour, Crime and Policing Act 2014	Breach of CPN	Fine £1,100 Surcharge £110	23/04/2019 Costs £187
Carolyn Smith	Noise abatement – Environmental Protection Act 1990	Noise abatement breach	Fine £120 Surcharge £30	23/04/2019 Costs £611
Samantha Flower	Noise abatement – Environmental Protection Act 1990	Noise abatement breach	Fine £120 Surcharge £30	07/05/2019 Costs £100
Lesley Smith	Noise abatement – Environmental Protection Act 1990	Noise abatement breach	Fine £450, Surcharge £45	07/05/2019 Costs £1676.94
Lesley Smith	Noise abatement – Environmental Protection Act 1990	Noise abatement breach	Fine £240 £30 court surcharge	03/12/2019 £1,000 costs
Pegasus World Ltd	Environmental Protection Act 1990 S34	Failure to comply with commercial waste regulations		07/05/2019 2 charges of 6600, £1012.64 costs £170 surcharge Total £14,382.64
Haizhou Zhou	Environmental Protection Act 1990 S33/34	Failure to comply with commercial waste regulations		07/05/2019 2 charges of £1,969, £500 costs £228 comp to ocean corals and surcharge £170 Total £4,836
Sharn Ogden	Environmental Protection Act 1990 S33	Fly tipping	Fine £312, £32 court surcharge.	03/12/2019 fined £312, Costs £286, £32 court surcharge.
Mr Miles	Scrap Metal Dealers Act	Failure to comply with scrap metal	Fine £600 surcharge £30	18/10/19 Costs £600

		dealers regulations		
Adam Smith	Scrap Metal Dealers Act	Failure to comply with scrap metal dealers regulations	Fine: £1,500 surcharge £150	29/07/2019 Costs: £947
Lloyd Hunter	The Dog Control Orders (Procedures) Regulations, 2006	Dog control order	Micro chipping £690 fine, CPN £1,100 fine, Court surcharge £66	08/10/2019
Mr Heppell	Clean Air Act, 1993 Environmental Protection Act, 1990	2 x Clean Air Act plus waste duty of care	fine £500, court surcharge £50.	05/11/2019 fined £500, costs of £2,677.58 court surcharge £50.
Paul Baldwin	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street Urination	Fine £131 Surcharge £30	23/04/19 Costs £144
Patrick McHugh	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street Urination	Fine £117, Surcharge £30	23/04/19 Costs £144
Peter Stableford	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street Urination	Fine £294 Surcharge £30	23/04/19 Costs £144
Emlyn Thomas	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street Urination	Fine £60, Surcharge £30	23/04/19 Costs £144
George McCormick	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street Urination	Fine £220 Surcharge £30	23/04/19 Costs £144
Andrew Brearley	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street Urination	Fine £117 Surcharge £30	23/04/19 Costs £144
Callum Oliver	Local byelaw prohibiting defecation/urination in	Street urination	Fine £80 £30 surcharge	08/05/2019 £144 costs

	public places - made 6 th April 1998			
Samuel Clarke	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £71 surcharge £30	04/06/2019 Costs £144
Daniel Wilstrop	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £116 surcharge £30	04/06/2019 Costs £144
Callum Ashmore	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £40 surcharge £30	04/06/2019 Costs £144
James Daniel	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £220, surcharge £30	04/06/2019 costs £144
Garald Maher	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £220 surcharge £30	04/06/2019 costs £144
Mr Russell	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £440 surcharge £44	31/07/19 Costs £123
Mr Lloyd	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £440 surcharge £44	31/07/19 Costs £123
Mr Butcher	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £440, surcharge £44	31/07/19 Costs £123
Mr Hewell	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £454 surcharge £45	31/07/19 Costs £123
Mr Bell	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £80 surcharge £30	31/07/19 Costs £123

Jack Parker	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £176 Surcharge £32	10/09/2019 Costs £144
Hanesh Guila	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £203 Surcharge £32	10/09/19 Costs £144
Shaun Doswell	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £80 surcharge £32	22/10/19 Cost £144
James Alexander Todd	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £183 surcharge £32	22/10/19 Cost £144
Russell Robert Weir	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £143 surcharge £32	22/10/19 Cost £144
Alexander Andrysewski	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £40 surcharge £32	22/10/19 Cost £144
Mr Thomas	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £40 Surcharge £32	05/11/2019 No costs
Mr Johnson	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £80 surcharge £32	05/11/2019 costs £144
Mr Stone	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £80, surcharge £32	05/11/2019 costs £144
Mr Sutton	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £350 surcharge £35	costs £144
Lewis Greenwood	Local byelaw prohibiting defecation/urination in	Street urination	Fine 146, Surcharge £32	19/11/19 Costs £171

	public places - made 6 th April 1998			
Jodh Raynor	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £109 surcharge £32	19/11/19 costs £171
Craig Russell	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine 128, surcharge £32	19/11/19 Costs £171
Daniel Boyle	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £158 surcharge £32	19/11/19 costs £171
Tom Jeffery	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £173 surcharge £32	19/11/19 Costs £171
Mr Ashdown	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £40 Surcharge £32	03/12/2019 £171 costs
Mr Arunan	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £146 surcharge £32	03/12/2019 £171 costs
Mr Woodcock	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £146 surcharge £32	03/12/2019 £171
Mr Barber	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £222 Surcharge £32	03/12/2019 £171 costs
David Meegan	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £110 Surcharge £32	17/12/2019 £291 costs
Christopher Thomas Astles	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £92 Surcharge £32	28/01/2020 Costs £289

Adam Brooke	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £166, surcharge £32	Costs £289
Carl Harrison	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £197, surcharge £32	28/01/2020 costs £289
Joshua Thompson	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £116 surcharge £32	28/01/2020 costs £289
Thomas George Deakin	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £40, surcharge £32	28/01/2020 costs £289
Mr Bendell	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £162 Surcharge £32	10/03/2020 Costs £289
Mr Blackwell	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £166 Surcharge £32	10/03/2020 Costs £289
Mr Ellison	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £108 Surcharge £32	10/03/2020 Costs £108
Mr McManus	Local byelaw prohibiting defecation/urination in public places - made 6 th April 1998	Street urination	Fine £233 Surcharge £32	10/03/2020 Costs £289

COMMUNITY PROTECTION WARNING/NOTICES (used for a variety of anti-social behaviour offences)

120 x warnings

11 x Notices

3 x Fixed Penalty Notices (FPN) (for breach of notice)

COMMERCIAL WASTE INAPPROPRIATELY PRESENTED

6 x Notices

0 x FPN

DANGEROUS DOGS

1 x Dog Control Orders obtained
5 x written undertaking

DOG FOULING

3 x FPN

DOG NOT MICRO-CHIPPED

14 x dog micro chipping notices
1 x prosecutions - offenders also prosecuted for dog being dangerously out of control
See table

DOMESTIC WASTE INAPPROPRIATELY PRESENTED

728 x Notices

DUTY OF CARE (householder)

12 x FPN
1 x caution

COMMERCIAL WASTE DUTY OF CARE/UNLAWFUL WASTE CARRIAGE

45 x Notices requiring production of waste information/transfer notes
16 x Notices requiring production of waste carrier's licence
12 x FPN's for failure to produce waste information/transfer notes
2 x FPN's for failure to produce waste carrier's licence.
1 x Simple cautions
2 x Prosecutions – see table

UNLAWFUL SCRAP METAL DEALERS

2 x notices
2 x Prosecutions – see table

FLY-GRAZING

0 x notices requiring horses to be removed.
0 x horses removed by bailiff

FLY-POSTING

14 warnings
2 x notices requiring removal of flyposting
12 x FPNs issued

FLY-TIPPING

19 x FPN's (small-scale fly-tipping)
1 x Prosecution – see table

LITTER

3 x Litter FPN's issued

NOISE NUISANCE (DOMESTIC)

622 x Warning Letters sent
29 x noise abatement notices served
4 x caution issued for breach of Abatement Notices
4 x prosecutions for breach of Abatement Notices

STREET URINATION

Prosecutions - see table

UNAUTHORISED ENCAMPMENTS

16 x notices (tents)

9 x Directions to leave land (caravans)

0 x Court orders obtained

0 x Incidents requiring instruction of bailiffs

PUBLIC SPACE PROTECTION ORDER (PSPO)

0 x FPNs for breach of PSPO

VEHICLES FOR SALE ON PUBLIC HIGHWAY

0 x FPN

S4 Pests

5 x notice

Drainage

2 x notices

Annex B: 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)

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