



Notice of meeting of

Decision Session - Cabinet Member for Crime and Community Safety

To: Councillors Fraser (Cabinet Member)

Date: Tuesday, 6 September 2011

Time: 4.30 pm

Venue: The Guildhall, York

A G E N D A

Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item on this agenda, notice must be given to Democracy Support Group by:

10:00 am on Monday 5 September 2011, if an item is called in *before* a decision is taken, *or*

4:00 pm on Thursday 8 September 2011, if an item is called in *after* a decision has been taken.

Items called in will be considered by the Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00pm on Friday 2 September 2011**.

1. **Declarations of Interest**

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

- 2. Minutes** (Pages 3 - 6)
To approve and sign the minutes of the last Decision Session meeting held on 5 July 2011.

- 3. Public Participation - Decision Session**
At this point in the meeting, members of the public who have registered their wish to speak at the meeting can do so. The deadline for registering is **5:00 pm on Monday 5 September 2011**.

Members of the public may register to speak on -:

- item on the agenda
- an issue within the Cabinet Member's remit
- an item that has been published on the Information Log since the last session. Information reports are listed at the end of this agenda.

Please note that no items have been published on the Information Log since the last Decision Session.

- 4. Consumer Landscape Review Consultation** (Pages 7 - 16)
To inform the Cabinet Member of the government's proposed changes to the provision of consumer information, advice, education, advocacy and enforcement and to seek approval of a response to the consultation on the proposed changes

- 5. Public Protection Legal Actions** (Pages 17 - 22)
The purpose of this report is to enable the Cabinet Member to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by Environmental Health, Trading Standards, and Licensing Services in the Communities and Neighbourhoods Directorate for the period 1st April 2011 – 30th June 2011 and approve the continuation of the current enforcement policy.

- 6. Urgent Business**
Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Jill Pickering

Contact Details:

- Telephone – (01904) 552061
- Email – jill.pickering@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting

- Registering to speak
- Written Representations
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above

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If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than** 5.00 pm on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

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Further information about what's being discussed at this meeting

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Access Arrangements

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If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an

interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

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Holding the Cabinet to Account

The majority of councillors are not appointed to the Cabinet (39 out of 47). Any 3 non-Cabinet councillors can 'call-in' an item of business from a published Cabinet (or Cabinet Member Decision Session) agenda. The Cabinet will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Cabinet meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	DECISION SESSION - CABINET MEMBER FOR CRIME AND COMMUNITY SAFETY
DATE	5 JULY 2011
PRESENT	COUNCILLOR FRASER (CABINET MEMBER)

1. DECLARATIONS OF INTEREST

At this point in the meeting the Cabinet Member was invited to declare any personal or prejudicial interests he might have in the business on the agenda. No interests were declared.

2. PUBLIC PARTICIPATION - DECISION SESSION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

3. THE SCOPE FOR THE REVIEW OF COMMUNITY BASED ROLES

Consideration was given to a report, which defined the scope for the review of community based roles within the council. These roles had been defined as roles which required community liaison, monitoring or investigation of community based issues and the enforcement of legislation.

The report also set out the approach, which would be adopted to carry out the review, and described the desired outcome following implementation giving savings in excess of £67k. Details of the community based and enforcement roles under consideration were set out at Annex A to the report.

The Cabinet Member confirmed that he supported the elimination of overlap in activities carried out by officers and the move towards a more flexible workforce. He supported this cost effective approach which would also improve the enforcement function.

RESOLVED: That the Cabinet Member agrees the proposed scope and approach of the review of community based roles as detailed in the report.¹.

REASON: To deliver a new organisational structure to deliver street based and enforcement functions.

Action Required

1. On the basis of the agreed approach and scope, proceed with the review.

SB

4. ILLEGAL MONEY LENDING TEAM - AUTHORISATIONS

The Cabinet Member considered a report, which sought approval for City of York Council to authorise Birmingham City Council to investigate and institute proceedings against illegal moneylenders operating within the City of York Council area.

An Illegal Money Lending Team had been established within Birmingham Trading Standards as a pilot project in England to provide a high level of specialist resource to provide this function. Details of the objectives of the project together with the protocol for investigations were set out in the report.

The Cabinet Member confirmed that it was important that action was taken against such individuals as they targeted the most vulnerable members of the community.

The Cabinet Member then went onto consider the following options:

Option 1: The council should authorise the enforcement of Part III of the Consumer Credit Act 1974 by Birmingham City Council (pursuant to Section 101 of the Local Government Act 1972, Regulation 7 of the Local Authority (Arrangements for Discharge of Functions) (England) Regulations 2000, and Section 13 and 19 of the Local Government Act 2000).

That the attached "Protocol for Illegal Money Lending Team Investigations" be agreed and authority be delegated to the Head of Trading Standards and Environmental Health to enter

into the agreement on behalf of the City of York Council and approve minor alterations if required.

Option 2: There are no other viable options as the funding is provided on the basis of expanding the Birmingham team; enforcement would be carried out by officers of the City of York trading standards.

RESOLVED: That the Cabinet Member agrees to Option 1 to authorise the delegation of functions and give approval to the protocol for investigations as set out in paragraphs 33 and 34 of the report.¹

REASON: To allow the Birmingham City Council Money Lending Team to undertake lawful investigations in the City of York Council area.

Action Required

1. Proceed with the delegation of functions to Birmingham City Council.

CR

5. PUBLIC PROTECTION LEGAL ACTIONS

Consideration was given to a report which had been prepared to enable the Cabinet Member to review the results of legal action, prosecutions, cautions and fixed penalties undertaken by Environmental Health, Trading Standards and Licensing Services in the Communities and Neighbourhoods Directorate for the period 1 January 2011 to 31 March 2011.

Details of the individual cases were set out at Annex A of the report and Officers confirmed that, in accordance with the policy each case had been considered on its merits before legal proceedings were instituted.

RESOLVED: That the Cabinet Member approves the report and the continuation of the current enforcement policy.

REASON: So that the Cabinet Member reviews formal enforcement activity undertaken by

Environmental Health, Trading Standards and
Licensing Services.

CLLR S FRASER, Chair

[The meeting started at 4.30 pm and finished at 4.45 pm].



Decision Session – Cabinet Member for Crime and Community Safety 6th September 2011

Report of the Assistant Director – Housing & Public Protection

Consumer Landscape Review Consultation**Summary**

1. To inform the Cabinet Member of the government's proposed changes to the provision of consumer information, advice, education, advocacy and enforcement. To seek approval of a response to the consultation on the proposed changes

Background

2. The Department of Business, Innovation and Skills (BIS) issued its consultation paper on 'Empowering and Protecting Consumers' on 21 June 2011. It proposes radical changes to the provision of consumer information, advice, education, advocacy and enforcement. The new proposals aim to simplify the confusing and overlapping provision of consumer protection, strengthening the effectiveness of consumer enforcement, with more cost-efficient delivery that is closer to the consumer front line.
3. The government wants to see public funding concentrated on bodies that consumers trust and already turn to for advice – Local Authority Trading Standards Services (LATSS) and the Citizens Advice Service (CA). It proposes that all consumer protection functions delivered nationally by the Office of Fair Trading (OFT) could be delivered by LATSS.
4. Under the proposals almost all central government funding for consumer information, advice, advocacy and education will transfer to CA which enjoys high recognition and trust among the public as well as a track record of effective advocacy. The government would expect the CA to work closely with Which? and other organisations in developing and delivering its advice and advocacy functions.

5. The recent National Audit Office report concluded that £4.8 billion (73 per cent) of consumer detriment from unfair and rogue practices arises as a result of threats that span more than one local authority area but trading standards are overwhelmingly funded by local authorities. The government proposes to deploy national funding to facilitate a more integrated approach to national and cross-boundary threats. This activity would be more effectively coordinated at national level by Chief Trading Standards Officers to ensure that enforcement gaps do not arise and that activity overall is better targeted.
6. The government also propose to create a Competition and Markets Authority (CMA), by merging the competition functions of the OFT and the Competition Commission. The CMA would play a key role in ensuring that markets are operating fairly and in the interests of consumers. It would have powers to investigate markets in which there are, or may be, structural problems and to use competition or consumer law to resolve these.
7. The government's intentions can be summarised from the report as:

- **Consumer information, advice and education;**

CA should in future have responsibility for publicly-funded national advice and education of consumers, working with other organisations as needed. If you need information or advice, go to Citizens Advice. Consumer advice currently delivered by the OFT under the banner 'Consumer Direct' would be transferred to Citizens Advice from April 2012.

Consumer Direct currently provide a national telephone helpline and on-line self help facility to members of the public to assist with any consumer problems. The telephone helpline has been adopted by the overwhelming majority of local authority trading standards services in the UK as their first point of contact.

- **Consumer Advocacy**

CA should be the lead national, publicly-funded consumer advocate, building on its very well known brand and high levels of public trust. Accordingly, the Government proposes that Consumer Focus should be abolished.

- **Enforcement**

The government proposes to strengthen consumer enforcement by improving the national leadership and coordination capability of local authority trading standards services and by clarifying their responsibility to tackle cross-boundary threats. It also seeks to ensure that there is more effective partnership working and prioritisation of activity between trading standards services and the proposed CMA.

8. The government's preferred approach to enforcement is as follows:

- A new Trading Standards Policy Board (TSPB) would be created, made up of Chief Trading Standards Officers to provide leadership and coordination of Trading Standards in identifying and tackling regional and national threats. A proportion of the current OFT enforcement budget and BIS funding for national enforcement programmes would be combined and made available to LATSS through the TSPB.
- National and cross-boundary issues concerning unfair, unsafe or rogue trading practices, other than those arising from structural market problems, would be tackled by expanded regional trading standards teams (currently called Scambuster Teams) or by designated lead authorities with particular areas or sectors of expertise. In order to reduce the disincentive for individual authorities to take on more complex or risky cases, some provision for an indemnity fund or other mechanism for underwriting risk would be provided. The TSPB would be accountable to BIS for the way it spends national government money but there would also need to be appropriate political accountability through the Local Government Group.

9. The CMA would have responsibility for investigating and tackling enforcement in markets in which there are structural market problems. This would include the retention of consumer law enforcement powers as an option in these cases. The CMA would have significant discretion to determine when such structural problems exist.

10. Trading Standards' professional body, the Trading Standards Institute (TSI), would take on responsibility for consumer

enforcement guidance, training, international liaison and policy functions, reporting to TSPB and thereby to BIS.

Potential Impact on City of York Council Trading Standards Service

11. The council's current demand for consumer advice and trading standards support is about 3000 enquiries per annum. These callers receive their first response by initial advice from the Consumer Direct service, funded by BIS and provided regionally by West Yorkshire Trading Standards Service. Approximately 1000 of these enquiries, which require mediation, enforcement or advisory intervention or more detailed advice are passed to the council's trading standards service for action.
12. The government proposes to transfer the existing Consumer Direct arrangements and resources from the OFT to Citizens Advice. This would be a major change and a significant challenge for the CA, which does not currently provide any similar call centres. The changes are currently planned for April 2012.
13. There are currently no proposals to change the second stage advice, intervention and investigation work that is undertaken by the council's trading standards service. It is clearly important that LATSS establish the good partnerships they currently have with Consumer Direct, with CA, to ensure intelligence and efficient and effective reaction to consumer problems.
14. City of York Council is currently the 'host authority' for the Yorkshire and the Humber region, BIS funded, Scambuster Team. The team was established in 2008 and the majority of investigations undertaken to date have involved taking action against rogue trading activities that have impacted on the lives of residents of York as well as others in the region and throughout the UK. The grant funding for this team is currently £250K per annum. If the government's proposed changes are implemented it is likely that the investigative capacity of this team will be enhanced.

Consultation

15. There has been no consultation in relation to this report.

Options

16. The two options are:

Option 1 - To respond to the BIS consultation supporting the proposed changes. In particular to support for the value of a specialist Scambuster Team to undertake effective cross border enforcement against rogue traders. A proposed response to the consultation is attached at Annex A

Option 2 - Not to respond to the proposed changes.

Analysis

17. Adopting option 1 would recognise the positive contribution that the City of York Council's trading standards service and the regional Scambuster Team makes to protecting residents from rogue trading activities and helps legitimate business prosper in a fair market place.
18. Adopting option 2 would put not show support for the concept of cross border enforcement and may put at risk future grant funding.

Corporate Priorities

19. The work of the trading standards service impacts on the corporate priorities to 'Create jobs and grow the economy' and to 'Protect vulnerable people'

Implications

20. **Financial:** There are no financial implications associated with this report.
21. **Human Resources (HR):** There are no HR associated with this report.
22. **Equalities Implications:** It is often the poorer and more vulnerable members of society who become victims of rouge trading and find it difficult to access appropriate support and help.
23. **Legal:** There are no legal implications associated with this report.

24. **Crime and Disorder:** If implemented the government's proposals will improve the council's ability to tackle illegal, unsafe and unfair trading activities.
25. **Information Technology (IT):** There are no IT implications associated with this report.
26. **Property:** There are no property implications associated with this report.
27. **Other:** There are no other implications to consider.

Risk Management

28. There are no significant risks associated with this report.

Recommendations

29. That the Cabinet Member for Crime and Community Safety approves option 1.

Reason: To support the proposals to strengthen the council's capacity to protect the residents of York and help local businesses prosper in a fair trading environment.

Contact Details

Author:

Colin Rumford
Head of Environmental
Health & Trading
Standards
01904 551502

Chief Officer Responsible for the report:

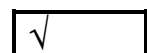
Steve Waddington
Assistant Director (Housing and Public
Protection)

**Report
Approved**



Date 05/08/2011

Wards Affected: List wards or tick box to indicate all



For further information please contact the author of the report

Background Papers:

BIS Consultation Paper 'Empowering and Protecting Consumers'(June 2011)

<http://www.bis.gov.uk/Consultations/empowering-and-protecting-consumers?cat=open>

ACTSO/TSI/LGG Councillor Briefing – Review of the Consumer Landscape (May 2011)

National Audit Office Report 'Protecting consumers – the system for enforcing consumer law' (June 2011)

Annex 1 – Suggested consultation response.

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David Evans
Consumer and Competition Policy Directorate
3rd Floor
1 Victoria Street
London
SW1H 0ET

Annex 1

Dear Mr Evans

Empowering and Protecting Consumers

I refer to the consultation document published in June 2011.

The government proposes to make radical changes to the way in which consumer protection advice and enforcement is undertaken in the UK. The consultation outlines many changes but I would like to respond on two issues which directly impact on the ability of the council to protect our residents and promote the economic interests of businesses that operate in York.

The consultation asks:

“Do you agree that the OFT’s consumer information role should be transferred to Citizens Advice?”

Under this proposal the government proposes to transfer responsibility for the Consumer Direct (CD) service to Citizens Advice. CD information is essential for our successful trading standards service to target their resources effectively using an intelligence-led approach to enforcement and to identify those vulnerable residents who are in additional need of support.

Whilst we support this proposal we would stress that local authority access to CD information must continue and be improved where possible. Failure to do this would put at risk the well-being of our residents and make effective and targeted enforcement more difficult and ultimately more expensive.

The consultation asks:

“Which option for reform of enforcement powers and responsibilities do you prefer, if any, and why?”

We prefer Option 3 under which the majority of the Office of Fair Trading's consumer enforcement functions to local authority trading standards services with some functions (for cases involving structural market problems) remaining with the Competition and Markets Authority.

In York we have a very successful and proactive trading standards service and the council is also the lead authority for the regional Scambuster Team. As well as helping our local consumers and businesses we already undertake (working with our local authority partners and other agencies) consumer protection work which has a regional and national impact.

Through our intelligence-led approach to enforcement, and using our extensive network of enforcement agency relationships we are often able to intervene in an effective and timely manner to minimise consumer detriment. Numerous examples are available to support the effectiveness of a 'local' approach to tackling a major issue and the proposed continuation of specialist enforcement teams on 'Scambuster' lines will greatly assist tackling those rogue traders who operate across local authority boundaries .

Option 3 would also remove the duplication of responsibility for enforcement in several areas of consumer protection work. With additional resources to build on the success of local authority delivery of trading standards services much more can be achieved. It will be essential however; that some of these resources are used to cover all the costs of an investigation of major national importance and any legal liability associated with the case is underwritten by government.

Yours sincerely

Sandy Fraser
Cabinet Member for Crime and Community Safety



**Decision Session – Cabinet Member for
Crime and Community Safety****6th September 2011**

Report of the Assistant Director – Housing & Public
Protection

Public Protection Legal Actions**Summary**

1. The purpose of this report is to enable the Cabinet Member for Crime and Community Safety to review the results of legal actions (prosecutions, cautions and fixed penalties) undertaken by Environmental Health, Trading Standards, and Licensing Services in the Communities and Neighbourhoods Directorate for the period 1st April 2011 – 30th June 2011 and approve the continuation of the current enforcement policy.

Background

2. The Executive Member for Environment and Sustainability approved an enforcement policy for Environmental Health, Trading Standards, Licensing, Street Environment and Enforcement Services in March 2008.
3. This report details the results of prosecutions taken in the period 1st April 2011 – 30th June 2011 by Environmental Health, Trading Standards, and Licensing Services. In accordance with the policy each case is considered on its merits before legal proceedings are instituted.
4. Annex A summarises the prosecutions completed, fixed penalty notices and simple cautions that have been issued. 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.

Consultation

5. Not applicable.

Options

6. Not applicable as the Cabinet Member is being asked to note the content of the report.

Analysis

7. Not applicable.

Corporate Objectives

8. Two corporate priorities are “To reduce the actual and perceived impact of violent, aggressive and nuisance behaviour of people in York” and “To improve the health and lifestyles of the people who live in York”.

Implications

9. **Financial:** There are no financial implications associated with this report.
10. **Human Resources:** There are no Human Resources implications associated with this report.
11. **Equalities:** There are no equalities implications associated with this report.
12. **Legal:** There are no legal implications associated with this report
13. **Crime and Disorder:** Formal enforcement action taken by environmental health, trading standards and licensing services contributes to reducing anti social behaviour and dishonest trading.
14. **Information Technology (IT):** There are no IT implications associated with this report.
15. **Other:** There are no other implications associated with this report.

Risk Management

16. There are no known risks associated with this report.

Recommendations

17. That the Cabinet Member approve this report and the continuation of the current enforcement policy.

Reason: So that the Cabinet Member reviews formal enforcement activity undertaken by Environmental Health, Trading Standards, and Licensing Services.

Contact Details

Author:

Colin Rumford
Head of Environmental
Health and Trading
Standards
Phone: 551502

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director (Housing and Public
Protection)

Report
Approved



Date 05/08/2011

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 A: EH, TS and Licensing Formal Enforcement Action 1st April 2011 – 30th June 2011

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**Environmental Health, Trading Standards and Licensing
Formal Enforcement Action 1st April 2011 – 30th June 2011**

Animal Health

Defendant	Legislation	Nature of Case	Penalty	Costs
Susan MACDONALD (Private Individual)	Dogs Act 1871 as amended by Dangerous Dogs Act	Dangerous dog	Order to keep dog under proper control and muzzled in public	£487

1 x £50.00 fixed penalty notice was issued under the Dogs (Fouling of Land) Act 1996 for allowing a dog to foul and failing to remove the faeces.

Food

Defendant	Legislation	Nature of Case	Penalty	Costs
Syed Juhel MIAH (Company director)	General Food Regulations 2004/Food Hygiene (England) Regulations 2006	Unfit food on the premises, did not have a food safety management system, did not keep high-risk food cold, premises and food equipment not clean.	Fine £600	£600
The Mogul Bengali Cuisine Ltd (Restaurant)	General Food Regulations 2004/Food Hygiene (England) Regulations 2006	As above.	Fine £3,500	£789.45
Vahe NERSESSIAN trading as Ko Ko International Bar (Restaurant)	Food Safety Act 1990	Whisky displayed for sale that was understrength in alcohol.	Fine £100	£500

1 x simple caution was issued under the Food Safety Act 1990 for displaying a label falsely describing alcohol.

Health & Safety/Licensing

5 x £50 fixed penalty notices were issued under the Health Act 2006 for smoking in a vehicle/premise.

Environmental Protection

Defendant	Legislation	Nature of Case	Penalty	Costs
Kevin BRYANT (Private Individual)	Environmental Protection Act 1990 as amended	Breach of an abatement notice for noise nuisance	Fine £250	£590.93
Grant MORTIMER (Private Individual)	Environmental Protection Act 1990 as amended	Breach of an abatement notice for noise nuisance	Fine £100	£600

3 x simple cautions were issued under the Environmental Protection Act 1990 as amended for breaches of abatement notices for noise nuisance.

Trading Standards

Defendant	Legislation	Nature of Case	Penalty	Costs
Trevor ROBINSON (DVD trader)	Trade Marks Act 1994	Offering counterfeit DVDs for sale at Rufforth car boot sale	Fine £200	£250

1 x simple caution was issued under the Children and Young Person Act 1933 for selling cigarettes to a person under 18 years.

Please note: all fines imposed by the Courts are now subject to an additional £15 victim surcharge.