

Update on Recommendations arising from the ‘Powers of Enforcement – Take-Aways’ Scrutiny Review

Senior Officer comments and Planning Enforcement Officer comments have been taken from documentation previously submitted to the Committee. Comments from the Environmental Protection Unit (EPU) were received 31st March 2009.

Recommendation 1

The Environment and Sustainability Scrutiny Board would welcome the positive contribution that the success of the penalty notice support bid would make to address these issues.

Comments from Senior Officers in Development Control

The Penalty Notice Support bid is the remit of Environmental Regulation.

Comments from Planning Enforcement Officers

No comment

Comments from EPU

The bid referred to was the Local Performance Service Agreement 2 bid (LPSA2) to provide a weekend nighttime noise enforcement service. This “Noise Patrol” has been in operation since April 2006 and was funded for the 1st 2 years from LPSA2. Since April 2006 the Noise Patrol has received nearly 3000 calls, made nearly 1800 visits, served 160 noise abatement notices and prosecuted 23 offenders. The powers for the Noise Patrol to serve fixed penalty notices under the Clean Neighbourhoods and Environment Act 2005 did not become law until October 2008. EPU set up procedures to serve fixed penalty notices for night time noise offences and trialled them, but they were found to be bureaucratic and time consuming and no substitute for our existing powers under the Environmental Protection Act 1990 and the Noise Act 1996.

Although the Noise Patrol deals predominantly with noise complaints, some of these are from licensed premises. Any complaints and actions taken are passed to licensing, trading standards, the police and other appropriate agencies. Breach of licence conditions and planning conditions can also be referred to the Noise Patrol, who will collect evidence for enforcement by the respective teams.

Recommendation 2

A multi-agency access database containing details about all individual take-away properties should be created. Such details should be in the form of notes on disturbance, environmental health issues, actions

taken to ensure compliance etc and updated by licensing, planning, environmental health and the community police as appropriate. This should be maintained to ensure that it remains current.

Under Section 17 of the Crime and Disorder act 1998 this information could, and should, be shared with North Yorkshire Police. This would allow Police Officers to assist in the collecting of evidence about late-night activities. The Environment and Sustainability Scrutiny Board would welcome the positive contribution that the success of the IT bid would make to address these issues.

Comments from Senior Officers in Development Control

The use of technology to integrate planning, regulatory and licensing functionality is being coordinated by colleagues in IT. In the meantime the UNIFORM system provides information including conditions imposed on take aways since 1996. This information is available to other Council departments. Environmental regulation does now have access to UNIFORM, and can check for new take away applications received to enable them to comment. Limited information on planning enforcement cases is also available.

Comments from Planning Enforcement Officers

Planning Enforcement does not have read only access to any consultees' databases.

Comments from EPU

Work began on an IT system, but was not progressed, effectively being replaced by the response under Recommendation 3 below.

Recommendation 3

That activities be coordinated between all relevant CYC departments (including Street Environment, EPU, Planning Enforcement Officers and Licensing Officers); especially at the point of determining which enforcement regime would be most effective. Working practices need to be agreed and joint training sessions considered where relevant, to avoid duplication or unwitting interference in each other's cases.

Comments from Senior Officers in Development Control

An enforcement protocol has been formulated and now being implemented. The Licensing Authority, Police, Fire, EPU and Trading Standards meet on a regular basis to discuss problem premises whether licensed or take-aways. Resulting from the 'Powers of Enforcement – Take-Aways' and working with the above agencies conditions are attached to Take Aways' licences – e.g. conditions to reduce litter, noise nuisance or to prevent crime and disorder, for example, insisting on CCTV, pager systems, employing door staff. Working relationships with other directorates is informal. Officers speak to each other, share information and apportion work dependent on their statutory function.

Comments from Planning Enforcement Officers

No working practices have been agreed in respect of co-ordinated activities.

Comments from EPU

Licensing enforcement meetings now take place every 2 months and include licensing officers, EPU, trading standards, planning enforcement, the fire service and the Gambling Commission. This involves intelligence sharing, planning joint visits and enforcement activities, setting priorities and determining appropriate courses of action inc. lead officers for each case.

Recommendation 4

That the Assistant Director responsible for the Planning Enforcement Team be instructed to review risk assessments carried out for all aspects of the officers' duties and to thereafter produce appropriate working practice agreements in consultation with the appropriate officer in Human Resources.

Comments from Senior Officers in Development Control

Risk assessments for lone working have been carried out and published. If there is a requirement for late night visits they are always carried out by officers in pairs, as are any other visits where there is potential for conflict, and using a council vehicle where appropriate. Planning Enforcement Officers use unmarked vehicles.

Comments from Planning Enforcement Officers

No out of hours risk assessment has been carried out in respect of out of hours working – the working practices that the Enforcement Officers should carry out e.g. ringing a senior officer when we finish work is highly unpopular with senior officers.

Recommendation 5

An official vehicle should be available during the day, or close parking provided for the on-call officer's personal vehicle. Council owned transport should be provided if the officer is working a night shift. Both marked and unmarked vehicles should be available, as required; especially for out of hours working.

Comments from Senior Officers in Development Control

Both marked and unmarked pool cars are available during the day and in the evening, the latter subject to pre-booking. Planning Enforcement Officers have permits valid for most council owned car parks and residents parking zones in the city.

Comments from Planning Enforcement Officers

Official vehicles are not always available during the day and officers' personal vehicles have no close parking. 48 hours notice is required for out of hours working.

Recommendation 6

That Planning Enforcement Officers be enabled to process their own prosecutions, that at least one Planning Enforcement Officer to undergo formal court training in order to support this.

Comments from Senior Officers in Development Control

Enforcement Officers have to date not processed their own prosecutions because of the lack of any although; officers have received training from Legal Services on how to prepare prosecution files. At least one Enforcement Officer has undergone court training and officers have attended additional training in relation to formal cautions and prosecution procedures. Training budget is set aside for appropriate courses as and when they become available.

Comments from Planning Enforcement Officers

No Planning Enforcement Officer has received formal court training and there is no agreed process for prosecutions.

Recommendation 7

That an investigation should be undertaken to assess which other officers are able to supplement the Planning Enforcement Team.

Comments from Senior Officers in Development Control

A 2007 internal report into the staffing resource shortfalls in Planning identified requirements for dedicated enforcement and appeals administrative support, although resources and budget constraints and other workload pressures for support services staff have to date prevented this issue from being addressed.

Comments from Planning Enforcement Officers

Development Control Officers should supplement the Planning Enforcement Team. This has only happened once and it was not a success, there is no effective long-term sickness cover.

Recommendation 8

Officers should be equipped with the necessary tools to undertake their work. The present level of equipment between departments is variable. Equipment should be assessed to meet the needs of the work and ensure equality of access between equivalent areas of work. The equipment list below should be taken as a starting point:

Fluorescent tabard	These should be marked to identify the council officer's position, like Street Environment Officers.
Fleece	These should be supplied and marked accordingly.
Laptop	A laptop should be available to the duty officer to ensure access to data at all times.
Digital camera	Each officer should have a camera.
Safety Boots	All officers should be supplied with a pair of safety boots and safety wellingtons.
Attack Alarms	Should be provided.
Hard Hats	Should be provided for use where appropriate.
Torch	Should be provided for use where appropriate.
Mobile Phone	Should be provided for use where appropriate.
First Response Kit	Officers should have access to a kit for personal use or in cases where the required level of training has been undertaken wider use as appropriate. This could be kept in pool cars.
Hazard Flashing Light	These should be supplied to ensure the safety of officers when parked to remove illegal adverts etc.
Cars (pool)	Access should be available during the working day. If an officer is on a night shift they should not be expected to hazard the safety of their personal car, whilst performing duties for the council.

Comments from Senior Officers in Development Control

The equipment listed is available to Development Control and Enforcement Officers and can be purchased where replacement or additional equipment is required.

Comments from Planning Enforcement Officers

No laptop has been supplied.

Conclusions

In summary, senior officers, felt that the impact and implications of the 'Powers of Enforcement – Take-Aways' Review had been largely felt elsewhere within CYC rather than within the Planning Enforcement

Department. The Planning Enforcement Officers felt that the only impact on them had been the fact that they were now provided with a digital camera each and wet weather gear.

On revisiting the recommendations of the 'Powers of Enforcement – Take-Aways' Review the Chair and Scrutiny Officer present the following findings to Members of the Committee. Clarity is required on various outstanding issues and these are outlined below:

Recommendation 1	Comments from EPU indicate that this has been implemented
Recommendation 2	EPU's comments suggest that IT began work on this but it was not progressed. It has been effectively surpassed by the initiative laid out in the comments under Recommendation 3
Recommendation 3	Comments suggest that this has been implemented but the Chair and Scrutiny Officer felt that further clarification was needed from the Planning Enforcement Officers as to whether they attended these meetings
Recommendation 4	Comments from senior officers in Development Control indicate that this has been implemented. Clarity needs to be sought as to how this information was filtered down to the Planning Enforcement Officers
Recommendation 5	Comments from senior officers indicate that this has been implemented; pool cars can be booked and permits have been issued to Planning Enforcement Officers for most council owned car parks. Clarity needs to be sought on any problems the Planning Enforcement Officers might be experiencing with this.
Recommendation 6	Clarity needs to be sought on this as during the course of this review mention was made that one of the Planning Enforcement Officers had now received training on this
Recommendation 7	Committee are making recommendation in the Planning Enforcement Ad Hoc Scrutiny Review to address this
Recommendation 8	Mainly implemented but there is also a recommendation arising from the Planning Enforcement Ad Hoc Scrutiny Review to look at the most suitable mobile communication technology for Planning Enforcement Officers