

**Report of the Planning Enforcement Officers  
5<sup>th</sup> November 2008**

- 1.1 The purpose of this report is to enable the Committee to have a greater understanding of the work undertaken by the Enforcement Officers.
- 1.2 Enforcement is a vital part of the planning system and an integral part of development control but it is not a straightforward procedure comprising a set of rigid rules. It is not a series of actions which follow each other automatically. Each action in the chain of events is independent. While each step may depend on its predecessors, it should be taken on its own merits. Overriding everything is the question of expediency.
- 1.3 Before the taking of enforcement action, it can have considerable consequences for those at the 'receiving end', it is essential that enforcement action is not only carried out in accordance with the appropriate legislation, but also after having taken into account all available guidance and advice. At the end of the day the cessation of the breach is most important, and an amicable solution is surely the best solution.
- 1.4 This report by the Enforcement Team has been undertaken in the light of the Scrutiny Committee's key objectives to try to answer some of the questions that the Committee have highlighted. It is also in the hope that the end result will give an improved customer friendly, efficient and professional service to that which we currently offer to the residents and businesses of York and its outlying areas.

**2.0 KEY OBJECTIVE (i) - To understand the Council's approach in relation to planning enforcement processes including Section 106 Agreements.**

- 2.1 The first part of this objective has been covered in the previous meeting by Mike Slater & Jonathan Carr.
- 2.2 The Planning Enforcement Section became involved with formal Section 106 Agreements in 2002. The intention was that the Enforcement Officers would ensure that financial obligations were paid upon reaching the appropriate trigger point. The only duty for the Enforcement Officer would be the chasing of the remittance to the Authority in a timely manner.
- 2.3 The adoption of the Draft Local Plan in April 2005, which brought policy L1c, has led to the Development Control department now using a planning condition to secure financial contributions to the Council. This has caused a knock on effect on the Enforcement Section in that the number of financial obligation cases raised has more than doubled. A process has been written (attached for information) to try to ensure that an Enforcement case is raised each time the condition is used, however it is not foolproof.
- 2.4 The condition that is widely used incorporates two trigger points and this has further compounded the extent of Officer time that is required to ensure compliance with the condition.
- 2.5 The actual wording of the condition is: - Open Space

*No development shall commence unless and until details of provision for public open space facilities or alternative arrangements have been submitted to and approved in writing by the Local Planning Authority. The Open space shall thereafter be provided in accordance with the approved scheme or the alternatives arrangements agreed in*

*writing by the Local Planning Authority and thereafter implemented, prior to first occupation of the development.*

*Reason: In order to comply with the provisions of Policy L1 of the City of York Draft Local Plan.*

**INFORMATIVE:**

*The alternative arrangements of the above condition could be satisfied by the completion of a planning obligation made under Section 106 of the Town and Country Planning Act 1990 by those having a legal interest in the application site, requiring a financial contribution towards off site provision of open space. The obligation should provide for a financial contribution calculated at £XXXX.*

*No development can take place on this site until the public open space has been provided or the Planning Obligation has been completed and you are reminded of the local planning authority's enforcement powers in this regard.*

2.6 The use of this condition has left the Enforcement Section being under resourced to ensure compliance.

2.7 The process associated with the s106 is at Annex A.

**3.0 KEY OBJECTIVE (ii) To understand City of York Council's approach to Court action in relation to breaches of planning Enforcement Notices.**

3.1 This objective has been covered in the previous meeting by Mike Slater & Jonathan Carr.

**4.0 KEY OBJECTIVE (iii) To examine why so many cases are outstanding.**

4.1 In the list below are some of the factors contributing to delays in dealing with Enforcement Investigations.

1. Disjointed command structure, difficult to know which manager to approach when wanting to task admin officers.
2. Lack of partnership working with internal consultees i.e. Conservation and property services. Property services can tend to drag their heels in relation to sites that are owned by the Council that need applications submitting to cover the problem.
3. Members of the public delay in replying to letters sent to them and then delaying taking action on matters that would not all ways be subject to actual enforcement action i.e. not expedient to do so due to the minor nature of the complaint.
4. Architects/ Agents by not submitting applications as requested to regularise sites that are subject of enforcement cases.
5. The lack of filing of closed files, files from previous years are still waiting to be filed causing a loss of time when searching for previous enforcement cases on troublesome sites.
6. The waiting for the return of closed files from Elvington. Currently old files are at Elvington and they can be required quite urgently in relation to old enforcement sites.

7. Admin, with the logging of cases (delay in logging), dealing with enforcement notices and their appeals, admin training (staff not trained in certain aspects of enforcement).
8. The need for streamlining of authorisation reports.
9. Need the ability to view other data bases (read only) held by the Council i.e. Electoral Roll, Council Tax, Property, EPU, Licensing, Building Control.
10. Lack of I.T. equipment- lap top with 'Razz' connection giving ability to work in the respective areas and home when required.
11. Land registry moving from York hampering detailed enquiries needed to identify property/land.
12. No dedicated Manager, prior to 2001 the enforcement teams line manager was a Principal Enforcement and Appeals officer.
13. Dealing with management issues such as ensuring accuracy in admin tasks and dealing with applications.
14. Legal department were historically slow in dealing with issues.
15. The reduction of officer hours (Mandy not working on a Friday)
16. Lack of available pool car, 48 hours notice is required if one is needed especially if required for night work. There is no close by parking.
17. Lack of Enforcement Cover i.e. sickness.
18. Unenforceable conditions - no enforcement input when considering conditions for planning applications.
19. Lack of condition discharging of pre-conditions prior to commencement on site of the development.

### **5.0 KEY OBJECTIVE (iv). To review the Council's processes and procedures to improve the handling of Planning Enforcement Cases**

- 5.1 There are very few existing processes relating to the Enforcement Function. Apart from the s.106 process reproduced at Annex A, there are processes for:
  - The Logging of Enforcement cases – reproduced at Annex B,
  - The Recording of the Service of Enforcement Notices – reproduced at Annex C,
  - Enforcement Notice Appeals – reproduced at Annex D, and,
  - The Closing of Enforcement cases – reproduced at Annex E.
- 5.2 The majority of these relate to work carried out by the Support Service Assistant, however, if no Enforcement Notice is served, they have no further involvement with the cases that have been raised.
- 5.3 The Enforcement Contract on the Council's website was written by the Enforcement Officers in February 2007 to get maximum Pendleton Points to satisfy criteria for Planning Delivery Grant on the 1 April 2007. The Enforcement Officers are not aware of the adoption of this contract by the Council, but it has nonetheless remained on the website since then, even though other things (such as the Register of Enforcement Notices) have been taken off again.

**6.0 KEY OBJECTIVE (v). – To explore the impact of the Scrutiny Review on Powers of Enforcement – Take Aways on the way planning enforcement is now conducted.**

6.1 The Environment and Sustainability Scrutiny Board's 'Powers of Enforcement – Take-aways' was in response to residents concerns in respect of late night noise, anti-social behaviour and street hygiene.

6.2 The only impact of the above for Planning Enforcement Officers is the supplying of wet weather gear and individual cameras.

6.3 We make the following comments on the implementation of some of the recommendations of the Scrutiny on Powers on Enforcement – Takeaways.

**Recommendation 1.** No comment

**Recommendation 2.** Planning Enforcement does not have read only access to any consultees databases.

**Recommendation 3.** No working practices have been agreed in respect of co-ordinated activities.

**Recommendation 4.** No out of hours risk assessment has been carried out in respect of out of hours working – the working practices which the enforcement officer should carry out i.e. ringing a senior officer when we finish work is highly unpopular with senior officers.

**Recommendation 5.** Official vehicles are not always available during the day and officers' personnel vehicles have no close parking. 48 hours notice is required for out of hours working.

**Recommendation 6.** No Planning Enforcement Officer has received formal Court Training and no agreed process for prosecutions.

**Recommendation 7.** 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.** No laptop has been supplied.

**7.0 INFORMATION GATHERING**

7.1 As part of this review, the Enforcement Officers have looked at their caseload in terms of new cases received and closed over the last few years. It is felt that this provides a revealing insight as to what is happening with the caseload and how the current situation compares with past performance.

7.2 Attached are graphs for total number of cases received & closed for both Enforcement Areas combined and for s106 Monitoring Cases. The figures are shown as a monthly average derived from annual totals, for each calendar year. This allows for easier comparison with a period of time that is less than a full year.

7.3 The figures have been collated from 1 January 2003, as before this period there were area changes and other kinds of cases that would not compare directly with the current set up of the enforcement function.

7.4 The graphs are reproduced as annexes as follows:

Annex F – Graph of New cases received and closed from 1/1/03 to 30/9/08

Annex G – Graph of s106 cases received and closed from 1/1/03 to 30/9/08

Annex H – Graph of total Formal Enforcement Notices and Other Formal notices served each year from 2003

## **8.0 CONCLUSION**

8.1 The Planning Enforcement Section has been excluded from a number of departmental re-structures and reviews to which the post holders expressed concern at the time. Even with the lack of supplementary planning guidance, written processes and policies the Enforcement Officers have tried to competently investigate cases within the resources available.

8.2 The duties of the Enforcement Officer entail high levels of stressful contact with the CYC customer base and the Officers feel this element amongst others has not been historically recognised and this has been highlighted in the downgrading of Officers in the Job Evaluation process. This has contributed to low morale.

8.3 The Enforcement Officers would like to thank the Members, for taking the time to consider this report and hope that the outcome of this Scrutiny Committee will provide clear guidelines for the post holder to follow when undertaking their duties.

### **Contact Details**

**Author:**

**Author's name**

Planning Enforcement Officers (Mandy Swithenbank, Alan Kendall, Andy Blain, Hilary Shepherd)

Dept Name: City Strategy

Tel Nos. 551376/551324/551314/551647

### **Annexes**

Annex A - Officer Procedure Note - Planning Obligation /Section 106 Agreements

Annex B - Logging of Enforcement Cases

Annex C - Procedure for the Inputting of Enforcement Notices in to Uniform

Annex D - Enforcement Appeals Procedure

Annex E - Notes For Enforcement Officers On Procedure Of Closing Cases.

Annex F – Graph of New cases received and closed from 1/1/03 to 30/9/08

Annex G – Graph of s106 cases received and closed from 1/1/03 to 30/9/08

Annex H – Graph of total formal notices and other notices served each year from 2003

**ANNEX A –**

**OFFICER PROCEDURE NOTE - PLANNING OBLIGATION /SECTION 106 AGREEMENTS**



**OFFICER PROCEDURE NOTE  
PLANNING OBLIGATION /SECTION 106 AGREEMENTS**

**Purpose**

This Note is intended to provide officers with a framework for dealing with Section 106 matters relating to new planning applications and prospective applications. A Planning Advice Note is also available for Developers.

The tasks involved in the process are set out by officer below:-

**AREA TEAM LEADER**

Team Leader to identify likely S. 106 issues when allocating applications, ensure internal consultees are notified at that stage.

Delegated Decisions to only be signed off if accompanied by Updated S106 Checklist and (where an actual S106 is likely) a completed Memo to Legal Services, (**MLEGSE**)

**DC OFFICER**

**Pre - application**

- Issue Planning Obligation/Section 106 Guidance Note to developers where obligation is likely to be required.
- Refer developers to relevant Supplementary Guidance or Advice Notes
- Applicants to agree heads of terms and submit confirmation of this with application. Where affordable housing likely, applicants should be asked to provide an Affordable Housing Plan (guidance in the Advice Note) and to identify the Registered Social Landlord at pre application stage or at least at application stage, where affordable housing is required.

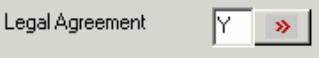
**Application**

- Where no pre- application discussion has been held, flag up S. 106 issues with developer at the earliest stage (i.e. on first receipt of application) prior to negotiations

on scheme details and amounts of any S.106 payments. Pre application procedure above should be used.

- If likely to be via a formal agreement (i.e. larger schemes), once Officer satisfied application likely to be approved, details forwarded to Legal Services as a formal instruction for drafting of agreement (see instruction Memo template **MLEGSE**). This can occur early in the process, need not wait for the conditional approval to be issued or for a resolution to approve subject to S.106.
- Copy of the Obligation/S.106 Progress Checklist should be kept on file and updated as appropriate (see template).

### Report

- Obligations should be subject to conditions, or (where a S106 is required prior to approval) the report should give details of Heads of Terms in the Delegated/Committee report.
- On the Uniform Recommendation Screen, the 'Legal Agreement' box is filled in with a  then click on the chevron and complete the Legal Agreement Details screen.



Agreement No.	Type	Received	Signed	Effective	Notes
1	S106 - Section 106 Agreeemen				

This will help to ensure that the S. 106 monitoring system is kept up to date.

- Report to team leader and Draft decision notice referring to a S106/financial obligation must be accompanied by: -
  - Up to date Checklist
  - Where an actual S106 is likely to result, completed **MLEGSE** if not already done.

### Post - Resolution

- If draft S.106 not already prepared, target is final document to applicant within 1 week of resolution. Copy of Progress Checklist to City Strategy Finance (Jane Wynn) and relevant consultee(s).
- In cases where the applicant or developer issues payment without entering into an agreement, officer will acknowledge the payment and issue standard letter giving assurance it will be spent in accordance with the terms of the relevant condition (or authorise Support Services Assistant to do so).
- In cases where a developer sends a payment with a Unilateral Obligation, Legal Services should comment on it and then respond to case officer to confirm acceptance of the obligation, effectively discharging the condition.

### **SUPPORT SERVICES**

Decision with condition requiring Financial Contributions only  
(i.e. S 106 not likely)

- Issue decision notice and complete file in usual way
- Arrange for the decision notice to be scanned and file to be returned to Admin
- Update the S106 Checklist with the relevant dates
- Make 3 + copies of the completed **S106 Checklist**
- Put the original S106 Checklist on the planning file. (The S106 Checklist should be updated when the Enforcement Record is closed – as should the Uniform record.)
- Go into Enforcement module and create a record with S106 suffix and put in a thin plastic pocket copy each of
  - Decision notice
  - Completed S106 Checklist
  - Enforcement worksheet
  - Map of site

Pass to EO in thin plastic pocket

- Write the Enforcement number on the S106 checklist (Key action 'f')
- Send a copy of the S106 checklist and a copy of the decision notice to Jane Wynn (City Strategy Finance)
- Send a copy of the S106 checklist to each Consultee/Directorate who requested a financial contribution
- If applicant submits payment with a Unilateral obligation, update the planning file Checklist and copy the Obligation to Legal Services for comment / agreement (with case officer's details for response)

Decision with condition definitely requiring S106 Agreement (with or without involving the payment of contributions)

- Issue decision notice and complete file in usual way
- Arrange for the decision notice to be scanned and file to be returned to Admin
- Update the **S106 Checklist** with the relevant dates
- Go into Uniform (Recommendation screen), Enter Y if the Planning Condition requires a Section 106 Agreement.
- Make 3 + copies of the completed **S106 Checklist**
- Make 2 copies **MLEGSE**
- Put the original S106 Checklist and MLEGSE on the planning file. (The S106 Checklist should be updated when the Enforcement Record is closed – as should the Uniform record.)
- Go into Enforcement module and create a record with S106 suffix and put in an orange file a copy each of:-
  - Decision notice
  - Completed S106 Checklist
  - Completed MLEGSE
  - Enforcement worksheet
  - Map of site
  
- Write the Enforcement number on the S106 checklist (Key action 'f')
- Send a copy of the S106 checklist and a copy of the decision notice to Jane Wynn (City Strategy Finance)
- Send a copy of the S106 checklist to each Consultee/Directorate who requested a financial contribution



- Copy of the S.106 once completed should be scanned and retained on the planning file and (where contribution involved) monitoring file.
- If applicant submits payment with a Unilateral Obligation, update the planning file Checklist and copy the Obligation to Legal Services for comment / agreement (with case officer's details for response)

### **Post-decision notice procedure for monitoring a signed S106 agreement with financial contributions**

- Issue decision notice and complete file in usual way
- Arrange for the decision notice to be scanned and file to be returned to Admin
- Copy of the S.106 should be scanned and retained on the planning file and (where contribution involved) monitoring file.
- Update the S106 Checklist with the relevant dates
- Go into Uniform (Recommendation screen), Enter Y (if not already entered); click on chevron and complete the 'Legal Agreement Details'
- Make 2 + copies of the completed **S106 Checklist**
- Put the original S106 Checklist on the planning file. (The S106 Checklist should be updated when the Enforcement Record is closed – as should the Uniform record.)
- Go into Enforcement module and create a record with S106 suffix and put in an orange file copy each of: -
  - Decision notice
  - Completed S106 Checklist
  - Completed MLEGSE
  - Enforcement worksheet
  - Map of site
- Write the Enforcement number on the S106 checklist (Key action 'f')
- Send a copy of the S106 checklist and decision notice to Jane Wynn (City Strategy Finance)
- Send a copy of the S106 checklist to each Consultee/Directorate who requested a financial contribution

### **ENFORCEMENT OFFICER**

- The monitoring procedure is the same as if a Section 106 has been signed, since a financial contribution prior to certain completion or occupation on site is expected as a result of the condition/obligation.
- Reception should receive the cheque, and send details to the Enforcement Officer monitoring the obligation. The relevant consultee e.g. Education Services will be informed by Finance.
- In cases where the applicant or developer issues payment without entering into an agreement, the Enforcement Officer monitoring the requirement should update the S.106 Uniform record and file and pass to case officer (who will write to acknowledge receipt of the payment and issue assurance that the contribution will be used in accordance with the terms of the relevant condition - or request Support Services Assistant to do so). This effectively discharges the condition. Where no further payments are needed the plastic pocket with documents can be filed numerically in lever arch.
- In cases where a developer sends a payment with a Unilateral Obligation, the Enforcement Officer monitoring the case will acknowledge receipt of the payment (or

request Support Services Assistant to do so) and pass to the Support Services Assistant to update the planning file Checklist and copy the Obligation to Legal Services for comment / agreement.

- If there are no other financial obligations attached to the application, the monitoring case can be closed.
- If non compliance with condition, issue non compliance letter (**S106BR**)
- Second letter (**S106BR2**) issued after expiry of period for compliance set out in **S106BR** stating intention to serve BCN in XX days unless actions in **S106BR** started.
- If no response to requests for payment, referral of matter to Legal Services for drafting of BCN appropriate to the circumstances of the enforcement case.
- If non compliance with obligation of an actual S106, write to developer to chase, pursue payment and as necessary to refer to Legal Services to commence formal proceedings.

## APPENDIX A

**Common Types of Obligation, Threshold Details and Details Needed to Formulate Heads of Terms**

- **Education** - 4 dwelling units or more (a check can be made with Education Planning on 01904 554447 to establish the need for this). How much, how calculated, how spent, when to be spent or if not spent, when to be repayable. (Supplementary Guidance Note available)
- **Public Open Space** – Any housing development (applicable where the on site standards outlined Policy L1c cannot be met). What to provide, how calculated, where to provide, when to provide, future maintenance/use (Supplementary Guidance Note available)
- **Affordable Housing** - Sites of 0.3ha/15 units in urban areas and 0.03ha/2units in rural areas. Is application outline or full, if latter identify plot numbers and parking spaces and prices (Supplementary Guidance Note Available)
- **Off site highway works** - where a scheme would be unacceptable without improvements or changes to a local traffic Regulation Order. Description of works/improvements, when to be carried out, by whom to be carried out, future maintenance, form of S.278. TRO – amount of contribution to making, when to be paid
- **Commuted payments in lieu of a shortfall in on site car and/or cycle parking.** – Used to improve public transport links and local cycle parking provision. Amount, when payable, how calculated, what to be spent on, when to be spent or failing which to be repayable. Thresholds within Appendix E of Local Plan
- **CCTV contributions** – often required for new A3 (food and drink) proposals and used to improve and maintain CCTV coverage in the City Centre or local centre. See Policy GP3. Amount, how calculated, on what to be spent, when to be paid, when to be spent or failing which to be repayable.

A number of other types of obligations may also be sought: -

- **Green Travel Plans or Transport Policy Statements** – Required for new or extended business premises (usually resulting in sites with 50 employees or more). Expected to demonstrate a commitment to reducing dependence of the car for work related travel. Description, when to be implemented/maintained, by whom to be implemented/ maintained. (Travel Plan Guidance Note available)
- **Energy Efficiency measures** – To demonstrate the sustainability of a scheme in accordance with National and Local Planning. Policies. A statement could include

description, when to be implemented/maintained, by whom to be implemented/maintained.

(New Housing Sustainable Development Briefing Note available).

- **Restrictions on use of adjacent land to ensure an adequate level of amenity are available for future residents** e.g. farming activities adjacent to barn conversions. Description, when to be implemented/maintained, by whom to be implemented/maintained.
- **Riverside walkways** – To comply with the Council's draft policies identifying the route of riverside walkways. Requirement to enter into agreement, the form of which is annexed to the S.106
- **Drainage and flooding protection measures** – To protect new development and to ensure new development does not result in flooding of adjacent areas. Description, when to be provided/maintained, by whom to be provided/maintained.
- **Revocation of old/ other relevant permissions** – Where a new proposals would only be acceptable if a previously approved development did not take place. Describe development authorised by other permission, giving its application reference no.
- **Environmental Improvements** – To improve amenity levels available and/or to mitigate against other impacts of a development. Description, when to be provided/maintained, by whom to be provided/maintained

## APPENDIX B

**Useful Contacts****Education Contributions****Jake Wood****4447**

Policy Support Officer, Learning Culture and Children's Services, Education Planning & Resources

**Affordable Housing****Andy Kerr****4153**

Housing Development Manager, Community Services, Strategic Services - Investment & Development

**Derek Gauld****1470**

Principal Development Officer - City Development, Environment & Development, City Development & Transport

**Open Space****Brian Williams****3392**

Parks & Open Spaces Officer, Education and Leisure, Lifelong Learning & Leisure

**Highway Works and Contributions, Green Travel Plans**

## East Area

**Richard Bogg****1335**

Area Engineer (Highways DC) - Network Management, Environment & Development, City Development & Transport

## West and Centre Area

**Howard Watson****1332**

Area Engineer (Highways DC) - Network Management, Environment & Development, City Development & Transport

**Energy Efficiency Measures****Kristina Peat****1666**

Sustainability Officer, Environment & Development, Planning & Design

**Drainage and Flooding Protection Measures****Mike Tavener****1473**

Project Manager (Structures & Drainage) - Engineering Consultancy, Environment & Development, City Development & Transport

APPENDIX C

**Supplementary Guidance and Internal Guidance Notes**

(Not an exhaustive list and Subject to Change)

- **Affordable Housing Advice Note (July 2005)**
- **Developer Contributions to Education Facilities (updated) April 2007**
- **Open Space Advice Notes:**
- **Open Space in New Developments – A guide to Applicants**
- **Provision of Open Space in New Housing Development (Harrogate B.C. April 2005) – for calculating payments**
- **CCTV - Requests for Contributions (Officer Note)**
- **Guidelines for Preparation of Transport Impact Assessments and Transport Policy Statements**

**Annex B –****Logging of Enforcement Cases,****Enforcement Cases****Complaint Tab**

The below notes give details of logging an enforcement case.

Postcode Search  
 Street Search  
 Address Search  
 Map Search




Right click in address field and retrieve property using

Click ok to return to complaint details screen, and double click in case ref to open the generate key screen.

1. Either enter type of application or drop down the menu to select the application type i.e. CARREP and click ok, this will generate the next number. Please be aware that you may need to force the year when logging cases at the end of each calendar year. The case should be logged in accordance with the date it was received.

The case number will then download into the screen. Tab to the address field and do street search and again select the required property and ok. The full address should then load into the address field.

Tab into Date received and amend with the date the complaint was received. Tab into *all blue fields* and complete or use drop down menus as appropriate and please fill in DC Refs if relevant, occurrences can be added if necessary.

Case Ref.	<input type="text" value="07/00384/CARREP"/>	U.P.R.N.	<input type="text" value="100050593112"/>
Breach Type	<input type="text" value="CARREP - Unauthorised car repairs"/>	Address	<input type="text" value="29 Tudor Road&lt;br/&gt;York&lt;br/&gt;YO24 3AY"/>
Status	<input type="text" value="2_PCO - Pending Consideration"/>	 	
Appeal Status	<input type="text"/>		
Map Ref (E)	<input type="text" value="457565"/> (N) <input type="text" value="450801"/>		
Date Received	<input type="text" value="02.07.2007"/> Time <input type="text" value="09:34"/>	How	<input type="text" value="COUNC - Via Councillor"/>
Received By	<input type="text" value="GSHEPH - Gill Shepherd"/>	Allocated To	<input type="text" value="ABLAIN - Andy Blain"/>
Subject	<input type="text" value="Owner"/>	Area Code	<input type="text" value="WESCEN - West/Centre Area"/>
Nature	<input type="text" value="Car repair business from premises"/>	Ward	<input type="text" value="WESFLD - Westfield"/>
Alt. Reference	<input type="text"/>	Parish	<input type="text" value="NOPAR - No Parish"/>
		Dist. Office	<input type="text"/>
		Related DC Refs.	<input type="text" value="07/00791/FUL"/> >> 

*How – click on drop down menu*

*Received by - again drop down menu or use the officers initials.*

*Allocated to – enter Enforcement Officers initials.*

*Subject - Owner or the full title of the person the complaint is about (if known).*

*Nature - A brief description of what the complaint is about.*

*Check the parish and ward are correct.*

*Related DC Ref - try to find a relevant case.*

To enter Owner Details click on **options** menu and from the drop down menu click on Interested Party Details.

Owner - If you do not know the name of the person that the complaint is about then type Owner.

Address - This is the address of the site, if you have not been given any separate details of the owner of the site. Double click to pull through site address.



ENFCRECIPI5.7.3.1C Interested Party Details

Address Type

IP Type

Name

Address

Comments

Contact Types

Click onto Complainant tab

Category

Date Received

Name

U.P.R.N.

Address

Contact Types

To Remain Anonymous?

Date Acknowledged

Actual Response Time (days)

Actual Resolution (days)

Notes

Remembering not to use the ok button or accept, complete all blue mandatory fields.

Category - F3 to use the menu behind.


Date Received - as above.

Name - Name of person making the complaint.

Address - Address of person making the complaint.

To Remain Anonymous – Y

Date Acknowledged - this is system generated.

If the complainant is a Councillor the button next to the name will change from black line (as shown above) to , by clicking on this it will pull up the Councillors details for the relevant ward. Click and ok on the one you want and their details will pull through. Re-enter CLLR in category as this disappears when details pull through.

Next Inspections and Actions screen to enter VST details.

Type in *visit pending* and drop down menu to pull through VST – Site Visit as above. The date to enter is 5 working days from when the Complaint is logged. Enter case officer from drop down menu.

Then click on Print.

From the Special List select Complaint Acknowledgement, change Document Mode to Print Only, Copies to 1 and select Print (this will then put the date in the Complainant tab for Date Acknowledged), and then from the Documents List print the Enforcement Worksheet for File.

**These have to be printed separately or the Complainant Acknowledgement Sent date doesn't appear on the worksheet.**

Next click on the Map tab and print off (from Spatial menu, print map) a copy of a map size 1:1250 and 1:2500, so that the Officer can locate the site from a major road as well as close up. If you have related the EN case to a DC case you will be prompted to copy over the polygon. Click yes.

The map may not be your site, so double click the address field on the left to bring up the site in question.

**Finally, print off a copy of property history for the site and request any relevant history files from the basement for the Enforcement Officer (if unsure what to retrieve check with the EO for the case).**

**Summary: -**

- Complaint received, case logged on Uniform
- Complaint, map and worksheet put into a thin plastic pocket by SSA and passed to Enforcement Officer (EO) in-tray. - Put into "New Enforcement Cases Tray" for West/Centre team. East team place in individual officers' tray.
- Enforcement Officer puts into their own plastic folder/file for initial investigation.
- Case either passed to Area Team Leader to close if no further action needed and then filed in lever arch (by Uniform reference number), if the case needs further actions it will be passed to SSA to be made up into pink enforcement file and then passed back to relevant Enforcement Officer.

**Annex C –****Procedure for the Inputting of Enforcement Notices in to Uniform**

When an enforcement investigation creates the service of a formal notice these are the processes that require attention from both Enforcement Officers and Area Team Admin.

**Enforcement Officer tasks**

Once the Enforcement Officer has had their authorisation report signed in full they (Enforcement Officers as Area Admin do not have the level of access to enter such details) should enter the basic details on the NOTICES screen by inputting as follows: -

Notices tab, Notices Screen

1. Retrieve the relevant case
2. Drop down list to allocate the type of notice
3. Tab through the next two fields to Date Authorised – input the date the authorisation report was signed by all parties.
4. Store the changes and leave the screen.

Notice Type	ENFOP - Enf. Notice Operational Development	Status	COMPLY - Notice Complied With
Date Authorised	05.12.2007	By	ALANK - Alan Kendall
		Date Issued	

When the notice is served, a copy of the notice and whom it was served upon should be put on the enforcement file by the Enforcement Officer and then passed to Area Team Admin to enter the notice on the system.

**Area Team Admin tasks**

On receiving an Enforcement Notice enter information onto computer as follows: -

Go to Enforcement Module

Notices tab, Notices Screen

1. enter Date Notice Served, By (drop down list and select Mike Slater) and How Served (as on Legal memo)

Date Served	05.12.2007	By	MIKE - Mike Slater	How Served	RECDLV - Recorded Delivery
-------------	------------	----	--------------------	------------	----------------------------

2. Date Effective see point number 6 or 7 on Enforcement Notice

Date Effective	18.01.2008
----------------	------------

3. Date All Served Informed: same as served date in point 1.
4. Certificate of service enter N

Certificate of Service (Y/N)?	N
Appeal Notes Supplied (Y/N)?	Y

5. Appeal Notes Supplied always answer Y

6. Date to Comply By (see point number 5 or 6 on Enforcement Notice and work out the date from calendar and enter) NB. If more than one date take the latest date please.
7. Enter Name of Address of all persons the notice was served on, click on chevron >> to add Names and addresses.

The screenshot shows a window titled 'ENFCRECI5.7.3.1C Interested Party Details'. It contains the following fields:

- Address Type: A dropdown menu with a yellow highlight.
- IP Type: A dropdown menu with 'OWNER - Owner' selected.
- Name: A text field containing 'Joe Bloggs'.
- Address: A text field containing 'Marsh Manor', '346 Strensall Road', 'York', and 'YO32 9SW'.
- Comments: An empty text area.
- Contact Types: A dropdown menu.

At the bottom right, it says 'Record 3 of 3' and has a 'Close' button.

Then close and return to main Notices screen, and add occurrence for next person served.

The screenshot shows a table titled 'People Served With Notices' with two columns: 'Name' and 'Interest'. Each row has a chevron button to its right.

Name	Interest
Joe Bloggs	OWNER - Owner
Mr James	OWNER - Owner
Joe Bloggs	OWNER - Owner

At the bottom right, it says 'Record 1 of 3'.

So each person served appears on the main screen, and their address shows when you click the chevron.

Then store.

Go to Reception tab and Breach Screen

Go to 'Details of Breaches' and enter

1. Within 'Details' insert text from point number 3 on Enforcement Notice
2. Within 'Actions to Rectify' insert text from point number 4 or 5 on Enforcement Notice
3. Within 'Reasons for Issue' insert text from point 4 on Enforcement Notice
4. Within 'Time Allowed' add number of days quoted in point number 6 on Enforcement Notice

Then store and go to

Inspections and Actions Screen

1. Click on Inspection Type then F4 to add occurrence and select PROS from list
2. Tab across to 'date'. Enter date to comply by (same date used in Notices screen) which is calculated as per point number 6 on Enforcement Notice
3. Insert initials of Officer who deals with that area or as per unique instructions.

Then go to

Print tab

1. Please raise 2 copies of ADVNOT - 'Advise notice served' letter to the complainant(s), post one copy out and file the second after stamping with file copy.

Photocopy notice and whom it was served on.

File Memo, Certificate of Service and Enforcement Notice on the enforcement File and return to Enforcement Officer with photocopy.

NB. Depending on the Enforcement Notice served the point numbers above may vary. They are in place as a guide for you, so check when you receive one what information is where and input accordingly.

If you are entering more than one notice, i.e. ENFOPDEV or ENFCOU then you can add occurrences for each notice in both notices screen and breach details screen.

When the Enforcement Officer receives the enforcement file after input of the notice, the enforcement officer should use the photocopy to ensure that the details are entered on the Enforcement Register through Access located in W/GROUP/Enforcement Registers/CYC Enforcements/Current CYC Enforcement Register. This is an access database and the details should be added as another record (shortcut forward arrow star at the bottom navigation keys) of the table enf\_reg located in the tables menu and that the copy is filed in the lever arch files stored in Paul's room. Please also print off a copy of the last page of the report found in the reports menu under CYC Enforcement Register, so that the register is kept up to date.

## Annex D –

### Enforcement Appeals Procedure

When the Enforcement Officer passes you notification of the appeal from the Planning Inspectorate confirming the appeal has been lodged with the related Enforcement file and any planning back history, ensure that the Enforcement Officer has completed the questionnaire up to question 23 if not pass back for completion.

Then go to Enforcement module and Notices screen and pull through the relevant case. Check that the Enforcement Notice has been entered, if this has not been completed pass the file back to the Enforcement Officer to complete.

If more than one notice has been served on the site if it is not obvious from the letter, check with the PI which notice is being appealed.

If the notice has been served on more than one person, all have the right to appeal the notice, this is logged as one appeal with multiple appellants, each appellant has their own appeal reference. Uniform will assume that the first person upon whom the notice was served will be the first appellant.

If the notice screen is fully completed go to Appeal Reception screen and complete as below.

- Complete Appeal type (F3 to chose Enforcement Notice if Discontinuance Notice please contact Karen as procedure is different)
- Complete the date lodged (Date Enforcement Appeal Form date stamped)
- Click on create appeal
- Make up orange file with sticker on front (Council Ref is original enforcement case reference number)
- Click on Appeal Details screen and complete:
- Date Valid – date PI letter was written (same as starting date)
- Alt. Ref – enter Agent's reference for case if any (in future this will be used to store the PI's email address)
- Enter procedure from drop down list (Written Representations, Informal Hearing or Public Inquiry).
- Started – Starting date will be quoted in PI letter (usually date letter was written)
- DETR Ref – found on top right hand side of PI letter, starts with APP/...
- Case Officer – Double click to choose from list (check with Team Leader which Development Control Officer will be dealing)
- Check and update if necessary the appellant and agent details.
- Then enter the grounds of appeal from the letter from PI the grounds are lettered a,b,c,d,e,f,g for enforcement appeals and a – k for listed building and conservation area enforcement appeals. Tick boxes as appropriate ok then store.

If multiple appellants add occurrence (F4) in Appellant name field and enter details of second appellant (and third and fourth etc as many as necessary), enter the specific DOE reference for that appellant in bottom field on left hand side as per below:-

Appellant	Mr Jones
Address	Asdmfomjdfdkmvfd Sdmvdkdfmv Ldm'lkdd
Phone	
Appel Ref.	
	APP/C2742/C/052002159

Remember to enter the grounds of appeal for each appellant as they may differ. To enter grounds click on the Grounds button. Then enter the grounds of appeal again from the letter from PI the grounds are lettered a,b,c,d,e,f,g for enforcement appeals and a – k for listed building and conservation area enforcement appeals. Tick boxes as appropriate ok and store.

Once you have added all appellants and grounds store.

If a fee is required a letter from the PI will indicate this, when payment is received, from Appeal menu select Appeal Fees and enter amount paid per appellant if applicable. Then click on payment details at the bottom of the screen and enter how the fee was paid i.e. cheque, how much was paid and the receipt number and save. Complete for each appellant. Remember fee may not be received until the time the questionnaire goes out and only one appellant has to pay, although more than one may.

#### WITHIN 2 WEEKS OF STARTING DATE:

All enforcement appeal templates are located in the Enforcement module and are printed from the Enforcement print letter screen.

For every type of Appeal you will need to consult the neighbours and the parish ask the DCO to identify any additional consultees. There may be some neighbours already entered into the neighbours screen these will be any complainants who have requested to be involved in the appeal process.

If there has not been a previous planning application on the site you will need to identify the neighbours remember to consult all abuts (front, back and both sides) manually enter the addresses into the neighbours screen in Enforcement module plus the parish/planning panel and any consultees identified by the DCO.

If there are multiple appellants on the appeal the template is set up so that a copy of the notification letters will run for every appellant bringing through the grounds specific to that appellant (as there is a repeat statement in the programming a headed page will print at the end of each neighbours set of letters). As the programming is so complicated please double check that all grounds have been pulled through on to the letters.

To produce letters, in the enforcement neighbours screen, double click to pick appropriate letter from Letter for Selected Neighbour box. Tab to bring up request box and choose Yes to send letter to all neighbours.

The letters to use are

- Written Reps Enforcement Neighbour (1),
- Hearing Enforcement Neighbours (1)
- Public Inq Enforcement Neighbours (1).

If the appeal is for a Listed Building the letters to use are:



- Written Reps Listed Bdg Neighbour (1a),
- Hearing Listed Bdg Neighbour (1a)
- Public Inq Listed Bdg Neighbour (1a).

Print 1 copy to send out and photocopy one of the letters for the file).

If there is more than one appellant you will need to print off the neighbour multiple appellant explanation letter, which is printed from the enforcement neighbours screen the letter will be either:

- Written Reps Multi Appel Neighbour (2),
- Hearing Multi Appel Neighbour (2)
- Public Inq Multi Appel Neighbour (2).

Print 1 copy and attach to the front of the neighbour letters to send out, photocopy one of the letters for the file).

All Councillors are now to be notified of appeals this is now done via an automatic email template. The email is triggered by printing the template.

Go to print letters screen in Enforcement module select from documents list either

- Written Reps Councillor Notification (3),
- Hearing Councillor Notification (3)
- Public Inq Councillor Notification (3).

If the appeal is for a Listed Building the letters to use are:

- Written Reps Listed Bdg Councillor (3a),
- Hearing Listed Bdg Councillor (3a)
- Public Inq Listed Bdg Councillor (3a).

Then Select print only, 1 copy and click on print. An email of the letter will then go to the Councillors. In the same print screen take the letter to view only and print a copy from word for the file. (If there are multiple appellants, the email will contain letters relating to each appellant.)

Go to Appeal Process screen and complete actual dates for notification of 3<sup>rd</sup> Parties. Then print 2 screen dumps of this screen one to attach to the inside cover of the file as a worksheet (this now has the due dates for the statement etc), the other for Legal see below.

For public inquiries notify Legal by going to Enforcement Print Menu and selecting Public Inq Legal Memo (4) selecting print only and 1 copy and print. (Attach copy of Appeal Process Screen).

### **QUESTIONNAIRE**

The Enforcement Officer should have completed the questionnaire down to question 23, and enclosed any necessary copying related to those questions they have answered. They should also pass to you for copying the following documents.

- A true copy of the enforcement notice.
- A true copy of the plan attached to the enforcement notice.
- The names and addresses of all persons upon whom the notice was served.

And should tell you which Development Plan policies need to be copied.

You will need to answer questions 24, 25 and 26, of the appeal questionnaire.

Question 24 is asking about who the DCO highlighted as consultees i.e. Yorkshire Water or English Heritage, etc write the names and addresses on the questionnaire form (these will have been entered onto the neighbours screen).

Question 25 requires information on persons notified, do screen dumps of the neighbours screen for this, also do a photocopy the neighbour letter and on the form complete the deadline for the neighbours to respond to the PI, i.e. six weeks from the starting date of the appeal. (See below for number of copies needed).

Question 26 write the name of any Development Plan highlighted by the Enforcement Officer in the box provided. And copy policies as per below.

Sign and date the forms when completed correctly.

Number of copies required:

- 1 for appeal file,
- 1 for PI
- 1 each appellant

To produce covering letters to send out with the Questionnaire go to enforcement print menu and select either

- Written Reps Quest Let App (4),
- Hearing Quest Let App (4)
- Public Inq Quest Lett App (5).

This letter pulls through details of all appellants. Select 2 copies (one for file) and print. Attach enclosures referred to above.

A separate covering letter is required for the PI select either:

- Written Reps Quest Let PI (5),
- Hearing Quest Let PI (5)
- Public Inq Quest Lett PI (6)

This letter pulls through details of all appellants. Select 2 copies (one for file) and print. Attach enclosures referred to above.

Go to Appeal Process screen and complete actual date for Questionnaire sent update sheet on file.

Pass file to DCO.

WITHIN 6 WEEKS OF STARTING DATE:

### **STATEMENT**

When the statement is passed to you by the DCO print letters to enclose statement. Go to Enforcement Print Menu and select either

- Written Reps Statement PI (6),
- Hearing Statement PI (6)
- Public Inq Statement PI (7)

2 copies (one for file) and print.

Send statement and ensure copy of statement goes on the appeal file. Go to Appeal Process screen and complete actual date for Statement sent update sheet on file.

WITHIN 9 WEEKS OF STARTING DATE:

**COMMENTS ON APPLICANTS REPRESENTATIONS**

If the DCO passes you comments he has written on the appellants statement or complainant/neighbour representations then send these with the following covering letter:

From the Enforcement Print Menu select either:

- Written Reps Comm on Apps Reps (7),
- Hearing Comm on Apps Reps (7)
- Public Inq Com on Apps Reps (8),

Print 2 copies one for PI, one for the file, photocopy enclosures for file.

Go to Appeal Process screen and complete actual date for Comments on Statement of Case sent update sheet on file.

**2<sup>nd</sup> PUBLICITY (informing of date and venue)**

For hearings and inquires the file will be passed back to you so that you can advise of the date and venue of the hearing/inquiry.

Upon receipt of the letter from the PI confirming the date of the hearing/inquiry a venue needs to be booked (Sara Bell, Ext 1049 – Guildhall, or our admin as usual).

Once the venue has been confirmed, go to Appeal Events screen and double click in top left hand field, select Venue from the drop down list. In the large text box enter the Venue (i.e. The Guildhall, St Helen's Square, York), as it needs to appear in the letter and store.

Enter the date of the hearing/inquiry in the Actual field in Appeal Process screen and store. Then in the inspector field double click and select the number of days the inquiry/hearing is due to last if indicated in the letter.

To send letters out:

From enforcement menu select print letters, and choose either:

- Hearing Date and Venue Cllrs (8)
- Public Inq Date and Venue Cllrs (9).

Then Select print only, 1 copy and click on print. An email of the letter will then go to the Councillors. In the same print screen take the letter to view only and print a copy from word for the file.

To produce the neighbour letters, go to neighbours screen, double click to pick either

- Hearing Date and Venue Neighbours (9)
- Public Inq Date and Venue Neighbour (10)

from Letter for Selected Neighbour box. Tab to bring up request box and choose all neighbours. Copy letter for file.

Using free text letter Enforcement Appeal Free Letter – PI notify them of the venue for the hearing or inquiry and enclose a location plan. Remember to retain a copy of the letter for the file.

Go to Appeal Process screen and complete actual date for 2<sup>nd</sup> publicity sent update sheet on file.

Check with DCO whether hearing should be advertised in the Yorkshire Evening Press. If press advert is required follow instructions under 4 weeks before public inquiry below. Make note in outlook diary if press advert is required for hearing.

### **Car Parking Space**

When we receive notification of the date of the inquiry/hearing reserve a parking space, here in St Leonard's, which is done through an email to Jane Benson.

### **4 WEEKS BEFORE PUBLIC INQUIRY**

### **PROOF OF EVIDENCE**

Officer will prompt you to send the Proof of Evidence to the PI. In Enforcement module go to print letters and select:

- Public Inq Proof of Evidence (11)

from the documents list select 2 copies and print. Send one copy to the PI with PoE attached, one copy for file with PoE attached.

Go to Appeal Process screen and complete actual date for Proof of Evidence sent.

From Enforcement Print letter screen take a copy of Enforcement Appeal Press Advert (12) to view and email to PPU to advertise in the press. (All inquiries to be advertised, hearings at discretion of the DCO.) Ensure copy of press advert obtained for file.

### **FREE TEXT LETTERS**

The following free text letters are available for use in the Enforcement module:

- Enforcement Appeal Free Letter – App (Appellant – remember to print one for each),
- Enforcement Appeal Free Letter – Nei (Neighbours if there are lots ask SSO/SSM to change template),
- Enforcement Appeal Free Letter – PI
- Enforcement Appeal Free Let - no address.

Remember for any letters printed through word to print an extra file copy.

### **Finishing Off**

When a decision comes in from PI the officer will pass over decision letter.

Decisions should be entered on computer – go to Appeal Decision Screen, complete decision, made on and date received box.

Also enter any conditions which maybe attached by double clicking in lined text box (Condition Text)

Original decision letter to be placed on Appeal File, with copy placed on enforcement file and if appropriate, planning file.

Place copy on Appeals Register File and enter onto Appeals Database 2003 - date which can be found in Word, L Drive, Group, Planproc, Appeals Database 2003 - date.

Pass decision to Karen for scanning, await confirmation file has been scanned. Send electronic copy of decision via email to Councillors and circulate round DC. The email address for all Councillors is DEEDS Planning Appeals.

### **Electronic copies of Decisions**

Copies of appeal decisions can now be emailed, by opening the case in uniform, click view image, open first page of document (if more than one). Go to file drop down menu and save as. Enter a name for the file i.e. App Dec pg1 and click save. Do this again for any more pages of the document saving them as different file names i.e. App Dec pg2 etc.

Then open word and a new document, from the insert drop down menu select picture and from file, then go to the first page you saved and double click. The scanned document page will open in word, you can then go to insert menu select break and page to get a new page and insert picture from file again to insert the next page of your document i.e. App Dec pg2, and repeat until all pages are displayed in word.

Then save the document in word i.e. 73 Layerthorpe – Appeal Decision then you can email the document as a word attachment.

Please put the appeal decision address in the subject field on the email, as per you saved the word document (73 Layerthorpe – Appeal Decision).

**Annex E –**

**Notes For Enforcement Officers On Procedure Of Closing Cases.**

When you are in a position to recommend closure of an investigation, please follow the below criteria: -

Retrieve the relevant record in the Enforcement Module go to Inspections and Actions screen

1. Update the Survey field by entering text at the end of the existing text – **Do not use carriage returns.**
2. F3 or double click in the date closed field at the bottom of the screen

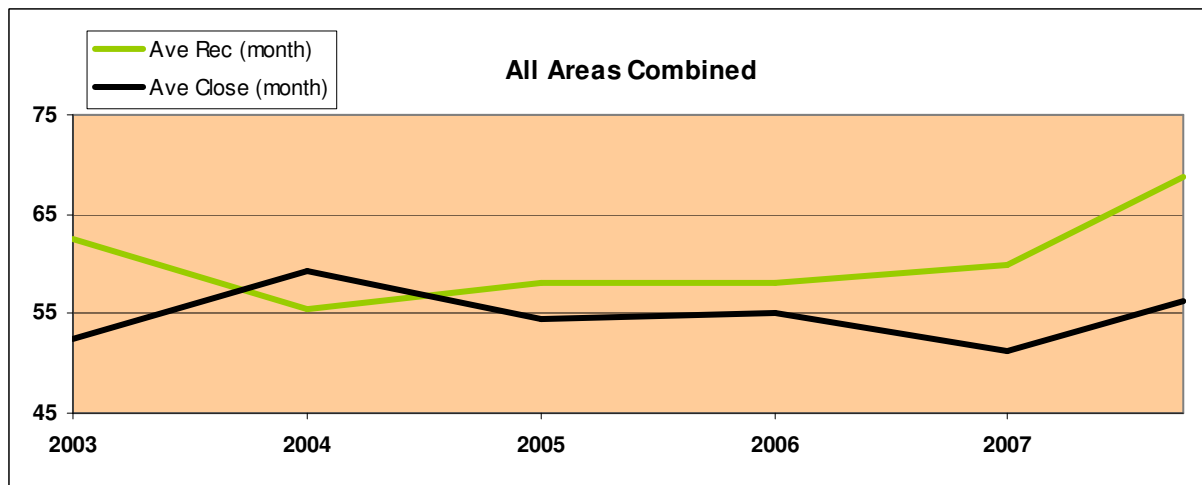
Store and F6 to Print Menu

Enter Print Letters screen and print off one copy of the Enforcement Worksheet for File

Place the copy of the worksheet on top of the Enforcement Investigation File and any relevant planning files, band all together and present or leave with ATL for countersignature.

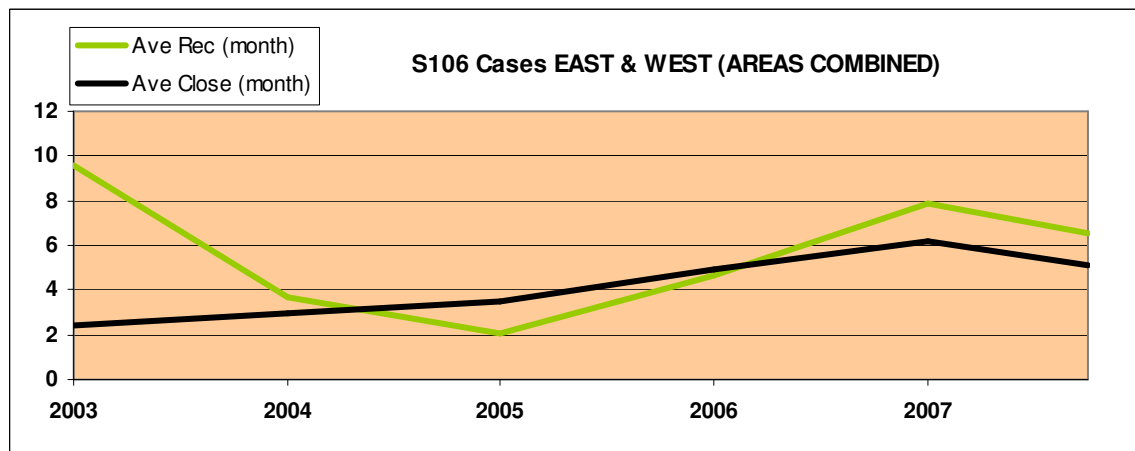
Once the ATL has confirmed that the investigation can be closed, advise complainants and owners (if relevant) placing copies of letters or notes of telephone call if applicable on the file.

Stamp up the front cover “Closed” and place in filing tray in Karen’s room.

**Annex F –****Graph of New cases received and closed from 1/1/03 to 30/9/08**

	<b>EAST &amp; WEST (AREAS COMBINED)</b>				
	Ave Rec (month)	Ave Close (month)	Rec (year)	Closed (year)	
2003	62.5	52.4	750	629	
2004	55.4	59.3	665	711	
2005	58.1	54.4	697	653	
2006	58.0	55.0	696	660	
2007	60.0	51.2	720	614	
2008	68.7	56.2	618	506	Up to 30 Sep

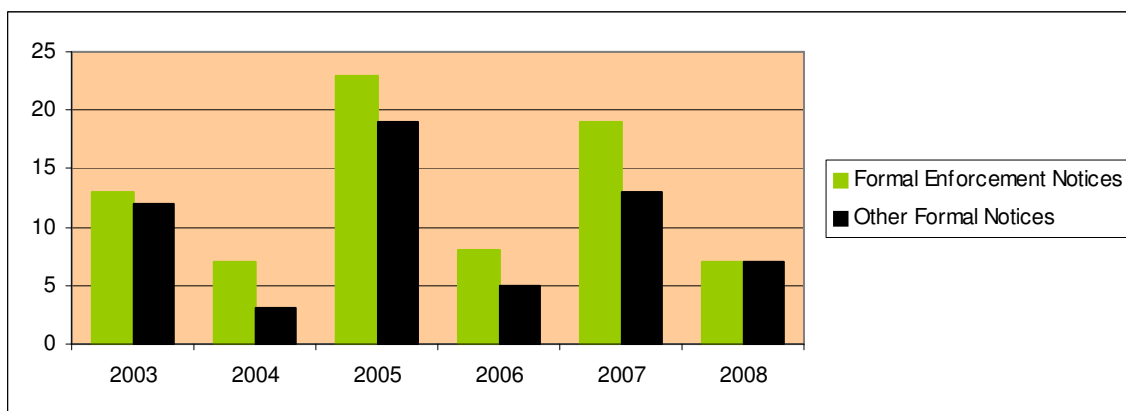
This graph compares the annual number of new cases received against the annual number of cases closed, displayed as monthly averages.

**Annex G –****Graph of s106 cases received and closed from 1/1/03 to 30/9/08**

<b>S106 Cases EAST &amp; WEST (AREAS COMBINED)</b>					
	Ave Rec (month)	Ave Close (month)	Rec (year)	Closed (year)	
2003	9.6	2.4	115	29	
2004	3.7	2.9	44	35	
2005	2.1	3.5	25	42	
2006	4.7	4.9	56	59	
2007	7.9	6.2	95	74	
2008	6.6	5.1	59	46	Up to 30 Sep

This graph compares the annual number of new s106 cases received against the annual number of cases closed displayed as a monthly average.



**Annex H –****Graph of total formal notices and other notices served each year from 2003**

	<b>Formal Enforcement Notices</b>	<b>Other Formal Notices</b>
2003	13	12
2004	7	3
2005	23	19
2006	8	5
2007	19	13
2008	7	7

Formal Enforcement Notices includes Enforcement, Breach of Condition and Stop Notices.

Other Formal Notices includes PCNs, s16 Notices, s330 Notices