

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Robert Walker, Executive Director - Place

To: Policy Development Panel, 15 January 2019

Author: Sarah Shipley, Food, Health and Safety Manager

Subject Corporate Enforcement Policy Update

Purpose: To provide members with an update on enforcement activity since the introduction of the new Corporate Enforcement Policy

Recommendation:

- 1) That the content of the report be noted

1.0 BACKGROUND

- 1.1 The Council is responsible for enforcing a wide range of legislation, with powers of enforcement usually delegated to individual officers in the various service areas concerned. The decision to take (or not take) enforcement action is a serious one that may have implications for all involved and it is therefore important that there is a policy in place that ensures fairness, openness, and consistency.
- 1.2 Enforcement action can take different forms including:
 - Inspecting premises, processes, equipment or food;
 - Investigating complaints about individuals and business;
 - Providing advice about how to comply with the law;
 - Taking action at Licensing Panels or undertaking Licensing Reviews;
 - Issuing fixed penalty notices, statutory notices or taking prosecutions.
- 1.3 All departments dealing with enforcement do so in line with the Corporate Enforcement Policy approved on 29th May 2018 at Cabinet, ensuring they take enforcement action when proportionate and necessary to do so. All services have a tiered approach to enforcement; starting with compliance or warnings and progressing to other enforcement activity where proportionate and appropriate. Compliance advice, guidance and support is included as a stage of enforcement – this advice is sometimes in the form of a warning letter or informal caution. Statutory notices – including Prohibition Notices, Community Protection Notices and Improvement Notices are issued when there are breaches and they are legally binding. Failure to comply with these can be a criminal offence and may lead to prosecution. Prosecution will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

- 1.4. The policy creates one single, joint Corporate Enforcement Policy and brings it in-line with current requirements. The Policy starts from the premise that most businesses and individuals want to comply with the law. Help and support will be provided to enable them to meet their legal obligations without unnecessary expenses, while firm action will be taken against those who flout the law or act irresponsibly. It seeks to assist officers in the decision making process, to ensure a consistent approach when using the range of enforcement tools available to them.
- 1.5 The tables below show the enforcement activity by service area prior to the introduction of the new policy and since the introduction of the policy.
- 1.6 **Enforcement figures prior to introduction of the policy (January – May 2018)**

*Additional Licensing data - none

Service	No. informal notices/warning letters	No voluntary undertakings	No Statutory notices	No financial penalties	No Injunctive Actions, Enforcement Orders etc	No of Simple Cautions	No Prosecutions
Environmental Protection	170	0	0	0	0	0	0
Licensing*	6	0	0	0	0	0	0
Food, Health and Safety	128	0	4	0	0	0	1
Environmental Services	69	0	0	2	0	0	1
Communities	75	4	2	0	1	0	0
Planning	0	0	2	0	0	0	0
Housing	0	0	2	0	0	0	1
Building Control	5	133	0	0	0	0	0

1.7 Enforcement figures since the introduction of the policy (June – 31 December 2018)

*Additional licensing data - There were 4 premises licences suspended and 1 revoked under the Licensing Act 2003. There was also 1 application to transfer a premises licence and vary a Designated Premises Supervisor which was refused. There was 1 immediate revocation of a taxi/private hire driver's licence

Service	No. informal notices/warning letters	No voluntary undertakings	No Statutory notices	No financial penalties	No Injunctive Actions, Enforcement Orders etc	No of Simple Cautions	No Prosecutions
Environmental Protection	348	0	0	0	0	0	0
Licensing*	2	0	0	0	0	0	0
Food, Health and Safety	133	0	3	0	0	0	0
Environmental Services	55	0	0	7	0	0	3
Communities	158	0	5	68	0	0	2
Planning	0	0	14	0	0	0	0
Housing	0	0	3	0	0	0	1
Building Control	8	274	0	0	0	0	0

1.8 The tables illustrate that the bulk of enforcement carried out by the Council is dealt with informally. Whilst prosecutions have increased in number over the second part of the year the number of prosecutions and more formal action is less comparatively. This is in line with the Enforcement Policy which states that best efforts should be taken to resolve any issues without taking formal action or referring the matter to the courts where minor offences have been committed and the Council is confident that appropriate corrective action will be taken. However where a business or individual is showing a flagrant disregard for the law and it is deemed that an informal approach is not appropriate more formal methods have been pursued.

1.9 The number of informal notices and warning letters issued across the various service areas has increased in the second part of the year. The number of fixed penalty notices have also increased over this period. This is in part due to the appointment of two Community Wardens in mid-June who have issued 80 warning letters and 67 fixed penalty notices.

2.0 OPTIONS

2.1 Do nothing.

2.2 Note the contents of the report and provide Members with a further update if required.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 It is recommended that the contents of this report are noted and that members of the Policy Development Panel have an up to date understanding of the enforcement that is taking place across the district.

4.0 **EXPECTED BENEFITS**

- 4.1 The report will give an overview of the Council's enforcement activities.
4.2 It will give assurances that enforcement action is being taken appropriately and that resident and community concerns are being addressed.

5 **IMPLICATIONS**

- 5.1 In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.2 **Carbon Footprint / Environmental Issues**

- 5.2.1 This report has no carbon footprint or environmental implications

5.3 **Constitutional & Legal**

- 5.3.1 There are many pieces of legislation that span across Planning, Building Control, Housing, Environmental, Anti-Social Behaviour, Crime and Disorder and Public Protection functions. The most appropriate tool or power will be used for each case to resolve the issue.

5.4 **Contracts**

- 5.4.1 This report does not give rise to any contract implications.

5.5 **Corporate Priorities**

- 5.4.1 The proposals support the following Council priorities:
- To develop safer, stronger, healthier and more independent communities while protecting the most vulnerable;
 - To have pride in South Holland by supporting the district and residents to develop and thrive;
 - To provide the right services, at the right time and in the right way;
 - To encourage the local economy to be vibrant with continued growth.

5.6 **Crime and Disorder**

- 5.6.1 This report supports regulatory work undertaken by the Council.

5.7 **Equality and Diversity / Human Rights**

- 5.7.1 This report does not give rise to any direct equality and diversity, or human rights implications. However it should be noted that surveillance techniques and investigations need to consider Article 8 of the Human Rights Act which covers right to privacy.

5.8 **Financial**

5.8.1 There are no direct financial implications arising from this report. However, some enforcement action can result in financial penalties alongside proportionate legal costs.

5.9 **Health & Wellbeing**

5.9.1 Regulatory work undertaken by the Council promotes health & wellbeing of residents, visitors and workers.

5.10 **Reputation**

5.10.1 It is important that the council demonstrates its commitment to taking appropriate and proportionate enforcement action and that it effectively deals with local concerns.

5.11 **Risk Management**

5.10.1 The Corporate Enforcement Policy should be followed by staff while undertaking regulatory activities this should reduce the risk of the Council being open to legal challenge or judicial review if decisions are made based on incorrect procedure.

5.12 **Safeguarding**

5.12.1 This report does not give rise to any safeguarding implications

5.13 **Staffing**

5.13.1 This report does not give rise to any staffing implications.

6 **WARDS/COMMUNITIES AFFECTED**

6.2 All Wards and communities within South Holland

7 **ACRONYMS**

7.2 All acronyms are clarified within the body of the report.

Background papers:-	None
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Key Decision: No

Exempt Decision: No

Appendices attached to this report: Corporate Enforcement Policy

