



REPORT TO:	Performance Monitoring Panel
DATE:	15 th June 2022
SUBJECT:	Corporate Enforcement
PURPOSE:	To provide Members with an update on enforcement activity across the Council
KEY DECISION:	No
PORTFOLIO HOLDER:	Portfolio Holder for Communities & Facilities
REPORT OF:	Emily Spicer, Assistant Director Wellbeing & Community Leadership
REPORT AUTHOR:	Dee Bedford, Community Safety and Enforcement Manager
WARD(S) AFFECTED:	(All Wards);
EXEMPT REPORT?	No

SUMMARY

This report provides Members with an update on enforcement activity across the Council. It shows an uplift overall in enforcement activity in 2021/22 compared to 2020/21 with the pandemic having a clear impact on this. The Council is further increasing its efforts during recovery to tackle matters such as enviro-crime through an intelligence led approach to such issues as fly tipping, leading to the development of an emerging enviro-crime strategy

The report requests that it is noted by the panel as well as requesting support for the recommendation that the data within the report sit within the quarterly performance report going forward.

RECOMMENDATIONS

Recommendation(s):

- 1) That the content of the report be noted
- 2) That the data within this report is provided on a quarterly basis to Members as part of the Performance report going forward for more regular updates

REASONS FOR RECOMMENDATIONS

- 1) The content of the report be noted to ensure the Panel is up to date on current enforcement action
- 2) Members would get more regular updates on enforcement action

OTHER OPTIONS CONSIDERED

- 1) Do nothing
- 2) The report continues to come back to the Panel every 6 months.

1. 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.
- 1.2 Enforcement activity in the Council is extensive and includes planning enforcement, contraventions of building regulations, littering, fly-tipping, anti-social behaviour, abandoned vehicles, evictions, possessions, prohibitions orders, food safety, health and safety, licensing, noise nuisance and pollution. The activity covers individuals, public areas, vehicles, homes and businesses.
- 1.3 All departments dealing with enforcement do so in line with the Corporate Enforcement Policy approved on 29th May 2018. The policy was updated and agreed at Cabinet in December 2021 after going through the Policy Development Panel in November. All services adopt an incremental approach to enforcement; starting with compliance, advice or warnings and progressing to other enforcement activity where proportionate and appropriate.

2. REPORT

2.1 ENFORCEMENT DATA

Performance indicators (PI's) for enforcement commenced in April 2019, requiring all teams across the authority with enforcement responsibilities to report on their enforcement on a quarterly basis.

- 2.2 The table below summarises the total enforcement activity recorded during 2020/21

Table showing enforcement activity for 2020/21

Service	No. informal notices/ warning letters	No. voluntary undertakings	No. Statutory notices	No. financial penalties	No. Injunctive Actions, Enforcement Orders etc	No. Simple Cautions	No. Prosecutions
Environmental Protection	18	0	2	0	0	0	0
Licensing	6	0	N/A	N/A	N/A	0	0

Food, Health and Safety – non covid	21	0	0	0	N/A	0	0
Communities – Community Safety and Enforcement	1,170	1	4	81	1	N/A	0
Planning	N/A	N/A	13	N/A	0	N/A	2
Housing (not including rent)	20	0	4	3	5	0	2
Building Control	0	146	0	0	0	0	0
TOTALS	1,235	147	23	84	6	0	4

*N/A: service area is not legislated to use the enforcement action

2.3 The table below summarises the enforcement activity recorded during 2021/22

Service	No. informal notices/ warning letters	No. voluntary undertakings	No. Statutory notices	No. financial penalties	No. Injunctive Actions, Enforcement Orders etc	No. Simple Cautions	No. Prosecutions
Environmental Protection	17	0	6	0	0	0	0
Licensing	11	0	N/A	N/A	N/A	0	0
Food, Health and Safety – non covid	151	0	9	0	N/A	0	0
Communities - Community Safety and Enforcement	1492	0	6	102	4	N/A	1
Planning	N/A	N/A	8	N/A	1	N/A	0
Housing (not including rent)	5	0	104	11	0	0	0
Building Control	210	448	0	0	0	0	0
TOTALS	1886	448	133	113	5	0	1

*N/A: service area is not legislated to use the enforcement action

- 2.4 The total figures show an increase in enforcement activity between 2020/21 and 2021/22. The Pandemic had an impact on activity and we are now seeing a return to pre-pandemic levels.
- 2.5 The action taken by the majority of departments occurs in the early stages of an investigation, often without the need for legal enforcement action.

2.6 Communities – Community Safety and Enforcement

2.7 The data shows a continued increase in lower-level enforcement for 2021/22 compared to 2020/21, in particular warning letters. Much of the work carried out by the team is dealt with in the early stages which prevents escalation. Those cases that do persist are then enforced through statutory notices, Injunctions or prosecutions.

2.8 The table below gives further detail of the type of action undertaken within the Communities team:

Action	20/21	21/22
Community Wardens – number of interactions	2174	6621
Community Wardens - number of verbal warnings	94	272
Community Wardens – FPNS from patrols	75	98
Abandoned Vehicle investigations	181	237
Fixed Penalty Notices issued for Fly-tipping	6	3
Fixed Penalty Notices issued for littering from a vehicle	0	1
Community Protection Warnings issued for;		
Creating Noise/ Nuisance from a vehicle	2	0
Noise from visitors to property	1	2
Shouting, swearing, verbally abusive	0	3
PSPO – drinking alcohol	0	1
Playing music, shouting, swearing, verbally abusive	0	4
Filming/recording a neighbour	0	1
Control of dogs	0	1
Urination in public view	0	2
Failing to remove graffiti	0	1
Not to allow individuals into property/not engage in drug activity at property	0	1
Not to play music at an unacceptable level from a vehicle	0	1
Early presentation of waste	1	15
Failure to clear litter	5	0
Community Protection Notices issued	4	6

2.9 Community Protection Notices are served when a Community Protection Notice Warning is breached and conditions have not been adhered to. The majority of cases are resolved at an early stage, however Four Community Protection Notices were served for anti-social behaviour and two served for early presentation of waste.

2.10 **Housing**

2.11 Financial penalties are issued by Private Sector Housing. They can cover a variety of areas of work including for unlicensed Houses of multiple occupancy (HMO's). For unlicensed HMO's, the process includes issuing a Notice of Intent whereby the landlords have 28 days to respond with a satisfactory answer and if the council are not satisfied the final notice is issued. Once the final notice has been issued, the landlord can appeal to the First Tier Property Tribunal. At that point the council will provide a court bundle of our evidence and it is then down to the Property Tribunal to make the decision whether to uphold the fine issued, reduce it or remove it completely.

2.12 Financial penalties are also issued for MEES enforcement work (Minimum Energy Efficiency standards). A similar process is followed to the unlicensed HMO's in terms of, we send the landlords compliance notices asking them to complete certain tasks in order to get the EPC ratings on their rental properties to an E rating or above. 104 compliances notices were issued, of these, 8 have now escalated to a penalty notice stage. These fines are calculated on a matrix scale and range from £500-£5000.

2.13 **CASE EXAMPLES**

2.14 Below are some example cases where enforcement action has been taken during the period covered in this report.

2.15 **Communities – Community Safety and Enforcement**

2.16 A Council tenant within a sheltered bungalow was befriended by a female who offered to do some shopping/cleaning for him. Over time she began exploiting him for financial gain. The tenant initially was unable to see that he was being exploited which made gathering evidence very challenging. Over time a good rapport was built by a Community Warden and the tenant disclosed that he was in a situation he was struggling to get out of. He advised that the female was 'demanding' money and demanding he fetch drugs for her. He was fearful of her friends and what would happen if he did not do as she asked. Due to the impact on the tenant, neighbouring residents and the wider community, the Council successfully obtained a Partial Closure Order for the property to exclude named persons from visiting whilst allowing the tenant to remain safely in their home. The order was in place for 3 months and significantly reduced the fear for the community and the tenant. Work continues to support the tenant to help reduce the likelihood of any future exploitation.

2.17 **Private Sector Housing**

2.18 A landlord was issued with a notice of intent which requested that they fully complete an HMO licence application. This was not completed by the date on the notice of intent which resulted in a Final Notice for failure to comply. This provided them with 28 days to appeal the decision to the First Tier Property Tribunal. No appeal was made and so the recovery of the £11,000 financial penalty is underway.

2.19 **Housing Services**

2.20 Housing Neighbourhood Officers have issued five Community Protection Notice Warnings to tenants involving poor condition of gardens, noise nuisance and major car works at a property.

2.21 **Environmental Protection**

2.22 Statutory nuisance work is often resolved before notices or enforcement action is required. There have, however, been two instances during the last quarter where notice have been served. A Community Protection Warning (CPW) was issued in Q4 in relation to barking dogs in a domestic property. A noise abatement notice was issued in relation to a different property in relation to loud music and barking dogs.

2.23 **Food Health and Safety**

2.24 The food safety informal notices were largely served in relation to inspections where improvements were required to improve compliance. These are often minor maintenance issues which do not require significant follow up. The District maintains high Food Hygiene Ratings across our food businesses with only one premises currently scoring under a rating of three.

2.25 The two statutory notices related to businesses needing to make more substantial improvements to their food safety operating systems.

2.26 **Licensing**

2.27 There are very few enforcement notices available to deal with licensing matters as a different process exists in most cases, whereby a licence can be reviewed, and a panel hearing is held. Enforcement action such as prosecution is usually the last resort in the most serious cases. One Licensing Panel hearing was held in Q4 (January 2022) where the Panel refused to grant a premises licence for a store in Sutton Bridge.

2.28 The Licensing team are seeing a significant increase in licensing activity across the board, likely as a result of businesses becoming busier again after the pandemic, and looking to expand or change their business model.

2.29 **ENVIRONMENTAL CRIME**

2.30 Fly tipping, littering and waste presentation issues continue to be a significant concern to South Holland residents as well as for communities across the country.

2.31 Incidents of fly-tipping are investigated where evidence supports a reasonable line of enquiry, however, if no evidence to identify the perpetrator is found, the only action that can be taken is removal of the waste. If evidence is found during the removal of waste, this

is referred back into the Communities team for investigation. The table below details Fixed Penalty Notices or Prosecutions for fly-tipping to-date.

	Fixed Penalty Notices (FPN)	Prosecutions
April 2018- March 2019	1	4
April 2019- March 2020	3	4
April 2020- March 2021	6	0
April 2021- March 2022	3	0

- 2.32 A triage system has recently been introduced to allow resources to be effectively targeted for fly tipping cases. Only those cases where evidence is identified are referred through to the investigating officer which allows for more time to be spent on investigating those cases where evidence has been found.
- 2.33 The Council are currently investigating several fly tipping cases where evidence has been identified and will publish any positive outcomes.
- 2.34 Increased resources have been allocated in relation to repeat locations where residents present their waste early. This can create several problems including attracting fly tipping. Warning letters are sent to those in the locality and when evidence is found within the bags of waste, action is taken through the ASB, Crime and Policing Act 2014 by issuing Community Protection Warnings/Notices. Increased resources have been temporarily allocated to this area of work within the Communities team via the Community Warden role.
- 2.35 Since the beginning of April 2022, 167 letters have been sent to residents in relation to waste presentation complaints, confirming the days that waste should be presented. Due to continued reports of waste being presented early, 7 Community Protection Notice Warnings have been issued, should they breach the warning a full Notice will be issued. Whilst investigating early presentation of waste complaints, evidence was found in black bags that were in a different location to the resident's home address. As a result, 7 Fixed Penalty Notices were issued for littering.
- 2.36 The Partnership is exploring the opportunity to develop an environmental crime strategy to set out the priorities in tackling environmental crime. This will enable the partner Council's to focus on a range of interventions, using an intelligence led approach: to prevent nuisance and damage caused by environmental crime such as littering and fly tipping; protect assets and vulnerable sites in the community; and pursue offenders through investigation and enforcement.
- 2.37 In addition to this, Officers are exploring options to increase capacity for environmental crime enforcement work, including engagement with our partnership Councils to consider prior learning and best practice. This includes consideration of a contracted enforcement service whereby an external company could provide a proactive patrolling service to undertake enforcement of offences including fly tipping, as well as prevention and education campaigns and surveillance capability including camera deployment. A proposal is being prepared for consideration by Cabinet and Full Council in July.

3. CONCLUSION

- 3.1 This report provides data on enforcement from across the Council through the corporate enforcement performance indicators which sit in line with the Council Corporate Enforcement Policy.
- 3.2 Detail has also been provided in relation to the council's response to Environmental Crime.

4. EXPECTED BENEFITS TO THE PARTNERSHIP

- 4.1 The report will give an overview of the Council's enforcement activities
- 4.2.1 To provide reassurances that enforcement action is being taken appropriately and that resident and community concerns are being addressed in line with the Council's Enforcement Policy

5. IMPLICATIONS

5.1 SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

- 5.1.1 This report identifies the action taken by the council in line with the Council's Enforcement Policy.

5.2 CORPORATE PRIORITIES

- 5.2.1 Enforcement supports the following Council priorities:

- Your Home;
- Your Place;
- Your Health and Wellbeing;
- Your Opportunity; and Our Council.

5.3 STAFFING

- 5.3.1 None

5.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS

- 5.4.1 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.

5.5 DATA PROTECTION

- 5.5.1 None

5.6 FINANCIAL

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

5.7 RISK MANAGEMENT

5.7.1 Enforcement action, particularly when it reaches court proceedings, is open to challenge. It is important that there is robust evidence to take enforcement action beyond an initial warning stage. There needs to be confidence in a case if it leads to court. Any case with insufficient evidence, which fails at court, has significant cost implications for local authorities and officers have a duty to use public money appropriately. Enforcement action should be in the best interest of the public and be proportional, consistent, transparent and targeted

5.8 STAKEHOLDER / CONSULTATION / TIMESCALES

5.8.1 None

5.9 REPUTATION

5.9.1 None

5.10 CONTRACTS

5.10.1 None

5.11 CRIME AND DISORDER

5.11.1 There are no direct implications from this report. However, taking appropriate enforcement action is a key part of community safety and addressing crime and disorder concerns.

5.12 EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

5.12.1 There are no direct implications from this report. It should be noted that surveillance techniques and investigations need to consider Article 8 of the Human Rights Act which covers right to privacy.

5.13 HEALTH AND WELL BEING

5.13.1 Appropriate and proportionate enforcement action can help support the health and wellbeing of those impacted by others behaviours.

5.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

5.14.1 None

5.15 LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

(Use this section to highlight any links to the 12 missions contained in the Levelling Up White Paper set out below. Delete any which are not applicable. If none, insert the word 'none'.)

MISSIONS	
This paper contributes to the follow Missions outlined in the Government’s Levelling Up White paper.	
Health	By 2030, the gap in Healthy Life Expectancy (HLE) between local areas where it is highest and lowest will have narrowed, and by 2035 HLE will rise by 5 years.
Wellbeing	By 2030, well-being will have improved in every area of the UK, with the gap between top performing and other areas closing.
Pride in Place	By 2030, pride in place, such as people’s satisfaction with their town centre and engagement in local culture and community, will

	have risen in every area of the UK, with the gap between the top performing and other areas closing.
Crime	By 2030, homicide, serious violence, and neighbourhood crime will have fallen, focused on the worst-affected areas.

6. ACRONYMS

6.1 ASB – Anti-Social Behaviour

6.2 HMO – Houses of multiple occupancy

6.3 MEES - Minimum Energy Efficiency standards

APPENDICES

None

BACKGROUND PAPERS

None

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body

REPORT APPROVAL

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