

ENFORCEMENT CO-ORDINATION PANEL

11 April 2016

Commenced: 9.00 am

Terminated: 10.15 am

Present: Councillor S Quinn (Chair)
Councillors Bowerman, D Lane, Middleton, Robinson, Sweeton and Taylor

In Attendance: Aileen Johnson Head of Legal Services
Alan Jackson Head of Environmental Services (Highways)
Sharon Smith Head of Environmental Services (Public Protection)
Jason Dugdale Development Manager (Planning, Development and Investment)
Kevin Garside Integrated Neighbourhood Services Manager

24. DECLARATIONS OF INTEREST

There were no declarations of interest submitted at this meeting.

25. MINUTES

The Minutes of the meeting held on 3 February 2016 were approved as a correct record.

Further to Minute 17 – Environmental Services Update – the Head of Environmental Services advised that arrangements had been made for a further training session for members of the Speakers Panel (Licensing) and Speakers Panel (Liquor Licensing) to take place after the forthcoming Local Elections in May.

26. ENFORCEMENT ACTIVITIES

(a) Neighbourhood Services

Consideration was given to a report of the Head of Stronger Communities, detailing enforcement activities carried out by Neighbourhood Services over the reported period of 3 October to 31 December 2015 which showed:

- An increase in reports of anti-social behaviour;
- A reduction in reports of dog fouling; and
- An increase in reports of littering.

New powers contained within the Anti-Social Behaviour Crime and Policing Act 2014 now grant the authority the power to issue a Community Protection Notice (CPN) warning letter to control behaviours that were persistent or continuing in nature and had a detrimental effect on the local community. During the reported period, 27 CPN warning letters were issued, of these 2 had been breached resulting in Community Protection Notices being served.

In respect of environmental anti-social behaviour, 1448 complaints had been received through the Symology system during quarter 3. A total of 43 fixed penalty notices had been issued for offences of littering and breaches of Dog Control Orders and further details were contained in the report.

Fly tipping amounted to 63% of the environmental anti-social complaints and was still a major concern for the local authority and residents. Of the 800 reports of fly tipping investigated, 476 were subject to follow-up action that included issuing fixed penalty notices, warning letters or statutory notices. Members of the Panel commented favourably on the work being undertaken by Clean and Safe Officers investigating, clearing and taking appropriate action against a minority who continued to illegally dump waste.

RESOLVED

That the content of the report be noted.

(b) Planning

The Panel received a report of the Assistant Executive Director (Development, Growth and Investment) advising that the interim figures for the fourth quarter of 2015/16 showing that 66 complaints were received alleging a breach of planning and building control, of which 51 were found to be proven as breaches. This represented a level of breach of 77.27% meaning that over three quarters of the complaints received required further investigation and possibly further action. The level of breach had increased significantly from the third quarter October to December 2015 which was at 47.3%.

During the January to March 2016 period, six formal notices had been issued, including three Enforcement Notices and three Planning Contravention Notices. The Enforcement Notices related to a residential property in Denton where the owner had erected a tree house structure in the rear garden area, a residential property in Hyde where the owner had erected a single storey rear extension and a residential property in Ashton-under-Lyne where the owner had erected a raised patio structure in the rear garden area. The Planning Contravention Notices related to a residential property in Denton where the owner had carried out significant building / engineering operations in the rear garden area, a property in Denton where the owner had covered over the yard area of a hot food takeaway premise and land in Denton where a pair of new semi-detached houses had not been built in accordance with approved plans.

Enforcement action had been taken with regard to an empty residential property in Dukinfield where the Council had received regular complaints from an adjoining resident and local Councillor regarding the overgrown condition of the front, side and rear garden areas of the property. Following several unsuccessful attempts to get the owner to voluntarily tidy up the garden, a Section 215 untidy land notice was issued and served on the owner requiring improvements to be made. The owner did not appeal the notice and also failed to comply with the notice requirements and therefore direct default action was taken to improve the condition of the property. Default works were carried out in March 2015 by contractors at a cost of £1,150 and this cost was now being recharged to the owner.

Reference was also made to **Appendix 1** containing details of the current enforcement activity and where formal notice had been served and cases recently concluded and responses were provided to queries raised relating to individual cases.

RESOLVED

That the report be noted.

(c) Environmental Enforcement

Consideration was given to a report of the Assistant Executive Director (Environmental Services) summarising the key enforcement activity undertaken by the Environmental Enforcement Team during the period 1 October to 31 December 2015.

Panel Members were advised that the prosecution against a travel agent specialising in arranging Hajj and Umrah pilgrimages had now progressed to Crown Court. Between 2013 and 2014 the business was unable to obtain Visas for travel and many pilgrims lost all their money which had been paid to the company estimated at £500,000.

A waste transfer station operation based in Droylsden had been prosecuted by the Environment Agency for breaching several conditions of their permit to operate. As the site was owned by the Council, consideration was being given to terminating the lease agreement on the grounds that failing to comply with relevant environmental legislation was a condition of tenancy.

Following concerns regarding the operations of a waste disposal company based in Dukinfield, inspections by the Environment Agency had identified non-compliance and the operators permit had been suspended due to the risk of serious pollution. Members of the Panel were therefore concerned to note that an owner was now operating from another site in the area and it would be important to ensure the site was operated in accordance with the approved planning conditions for that site.

In addition, the following matters were also highlighted and discussed:

- Summary of Improvement and Prohibition Notices served;
- Voluntary closure of a takeaway and food complaint investigated;
- Investigation of a case of infectious disease (Escherichia Coli);
- Inspection of unsafe hoverboards;
- Smoke abatement notice served on a company for smoke nuisance;
- Emergency Prohibition Notice served on a private rented property;
- Details of two premises licence applications heard by Speakers Panel (Liquor Licensing) and granted;
- Details of taxi driver refusal / revocations.

Councillor Sweeton made reference to discussions at the Stalybridge Town Team regarding the litter in the town centre particularly public houses and takeaway premises including discarded cigarettes and food waste / packaging. The Head of Environmental Services agreed to ascertain if there was an opportunity to tackle this issue through conditions on a premises licence.

RESOLVED

- (i) That the content of the update report be noted.**
- (ii) That the Head of Environmental Services to ascertain if it would be possible to tackle littering in town centres with conditions on a premises licence.**

(d) Engineering Services

The Environmental Services Manager (Highways) submitted a report detailing information on enforcement activities relating to abandoned vehicles, skips, scaffolding, pay and display car parking / on-street parking, bus lane enforcement, banner permits and private drainage and utility works.

Since the abolishment of a tax disc needing to be displayed in vehicles in October 2014, the number of reports of abandoned vehicles had been on the increase. Following enquiries made, most of the vehicles were just untaxed which were subsequently reported to the DVLA. It was intended to update the Council's web page with additional information to assist members of the public in reporting these direct to the DVLA.

During the reported period, 19 banner permits had been issued and 9 illegal banners had been removed.

In relation to bus lane enforcement, the camera located on New Beech Street, Hyde, was made live in December and there was a large number of drivers initially driving through the bus lane. Numbers had now reduced and this would be reflected in the statistics for the next quarter. In February 2016, the camera on Wellington Road, Ashton-under-Lyne, was disabled due to the road being closed for the demolition of the former Council Offices. There were no plans to reactivate the camera in the future as it was intended that the area would be pedestrianised.

RESOLVED

That the update report be noted.

27. WASTE POLICY AND ENFORCEMENT STRATEGY

The Assistant Executive Director (Environmental Services) submitted an update report on the implementation of the Council's new Waste Policy and Enforcement Strategy.

Complaints were being analysed, a central recording system identified and the current Symology system was being updated and developed in order for this to be achieved. In addition, a set of service standards and work instructions was being developed to ensure complaints were effectively triaged and dealt with by the most appropriate person / method.

Training would be provided on the procedures to be followed to all staff dealing with complaints including NSL staff and operations staff where applicable. Staff would not be serving fixed penalty notices until such time as they were deemed competent and had been properly authorised by the Council.

A series of days of action had been identified to be carried out throughout 2016 involving staff from a number of different service areas and partners to address a wide range of issues. The days of action would be in addition to the routine ongoing enforcement activity taking place on a daily basis. The key issues to be covered during the days of action and calendar were detailed in Appendix 1 of the report.

The Chair requested that elected members be notified of the days of action should they wish to be involved in those taking place in their Ward.

RESOLVED

- (i) That the content of the update report be noted.**
- (ii) That elected members be notified of the days of action should they wish to be involved in those taking place in their ward.**
- (iii) That further reports be submitted to the Enforcement Co-ordination Panel providing regular updates.**

28. OFFICE OF SURVEILLANCE COMMISSIONER'S INSPECTION AND REPORT

The Head of Legal Services presented a report explaining that the Council was required to undergo an inspection by the Office of Surveillance Commissioners every three years of its arrangements for use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA).

The latest inspection was on 9 November 2015 and the outcome was reported to the Council in an Inspection Report and letter dated 14 December 2015 attached as Appendix 1 to the report. The outcome was good and the Council had complied with the three specific recommendations made from the 2012 inspection and was commended as having a 'positive' attitude to the exercise of these important powers. The one recommendation set out in Appendix 1 was as follows:

'The Council Policy document should contain more practical advice for applicants and authorising officers and advice regarding the use of social networking sites and the internet by Council employees for Council business to fully explain how such use might meet the criteria for authorisation as a cover human intelligence source or as directed surveillance.'

The need for ongoing training on the practical application of RIPA was highlighted at paragraphs 7.2 and 9.2 of Appendix 1, although it was noted that the policy and guidance regime was of a good standard and appropriate. However, Members noted the covering letter from the Chief Surveillance Commissioner also highlighted particular observations in the Inspector's report in

relation to Social Networking Sites and the Internet, and commented that if they were not heeded, the Council could find it had acted unlawfully and that training should attend to these issues.

On 14 March 2016, key Council officers attended a joint RIPA training session with officers from Bury Council presented by a barrister from Lincoln Chambers in Manchester, where practical issues were also discussed, including the use of Social Networking Sites. The Council had therefore addressed, without delay, the comments of the Chief Surveillance Commissioner around specific training.

Members were advised that it had been made clear in the Covert and Property Interference Revised Code of Practice produced by the Home Office pursuant to Section 71 of RIPA that Members should not be involved in making decisions and specific authorisations. However, the Executive Director (Governance and Resources) might want to keep members informed of the processes followed under RIPA through the Enforcement Co-ordination Panel. In any event, Elected Members should review their authority's use of the RIPA and its policy at least once a year.

In conclusion, the Head of Legal Services stated that the Inspector's report provided a timely review of the Council's use of RIPA for Members to consider, together with the Council's Policy, which the Inspector was happy with, aside from the request for practical examples to be included within it, to assist officers which, had been addressed.

Members of the Panel discussed overt surveillance which included most of the surveillance carried out by the Council, where there was nothing secretive or hidden about it, for example signposted CCTV cameras, and covert surveillance which required authorisation under RIPA and would only be used in exceptional circumstances. It was noted that there had only been one authorisation granted over the past three years.

The Panel noted that the Council's Policy had been amended to take account of practical examples, including guidance on the use of social networking sites had been addressed and this was set out in Section J of the Council's Policy.

RESOLVED

- (i) That the Council Policy attached at Appendix 2 be agreed and endorsed.**
- (ii) That the Executive Director (Governance and Resources) continue to keep the policy under review and amend from time to time in accordance with guidance from the Office of Surveillance Commissioners.**
- (iii) That the Council's use of RIPA and the Council's Policy be reviewed on an annual basis in accordance with Section A, Paragraph 11, of the Policy attached at Appendix 2.**

29. URGENT ITEMS

The Chair advised that there were no urgent items for the consideration at this meeting.

30. DATE NEXT MEETING

It was noted that the next meeting of the Enforcement Co-ordination Panel would take place on Wednesday 27 July 2016 commencing at 10.30 am.

CHAIR