

RESOURCES AND SERVICES OVERVIEW AND SCRUTINY COMMITTEE

1 NOVEMBER 2021

REPORT OF DEPUTY LEADER, PORTFOLIO HOLDER FOR CORPORATE FINANCE & GOVERNANCE

A.1 TENDRING DISTRICT COUNCIL ENFORCEMENT

(Report prepared by *[Assistant Directors, Anastasia Simpson, Andy White, Graham Norse, Richard Barret and Tim R Clarke]*)

PURPOSE OF THE REPORT

To provide an update on the range of enforcement activities being carried out by multiple services of the Council.

INVITEES

- Cllr. Giancarlo Guglielmi, Deputy Leader, Tendring District Council
- Andy White, Assistant Director, Building and Public Realm, Tendring District Council. To be presenting on Waste, Flytipping, Abandoned cars and Abandoned dogs enforcement.
- Tim Clarke, Assistant Director, Housing and Environment, Tendring District Council. To be presenting on Environmental Protection, Private Sector Housing, Food/Health and Safety enforcement and Tenancy Management.
- Anastasia Simpson, Assistant Director, Partnerships, Tendring District Council. To be presenting on Alcohol, Entertainment, Taxi/Private licensing enforcement.
- Graham Norse, Assistant Director, Planning, Tendring District Council. To be presenting on Planning and Building Regulation enforcement.
- Richard Barrett, Assistant Director, Finance and IT, Tendring District Council. To be presenting on Benefit Fraud and Council Tax/NNDR enforcement.

BACKGROUND

To provide an update on the level of enforcement work carried out across multiple services within the Council as well as providing an overview on the strategic coordination of significant enforcement issues as part of the Resources and Services Overview and Scrutiny Committee's annual work programme.

The Committee wishes to assess the extent to which policies on enforcement exist, are up to date and provide a coherent approach to proportionate enforcement of offences/breaches across the Council. Thereby to inform any recommendations around this.

The committee also seeks to assess the extent to which the delivery matches the expectations in the approved plans and whether adjustments to delivery should be considered to improve that coherent approach.

The report will also provide a methodology as to how enforcement activities are carried out to give a greater understanding of the approach taken to ensure that a proportionate and consistent response is taken to each enforcement activity. The report will also identify the training that has been undertaken and is proposed in relation to enforcement.

DETAILED INFORMATION

The Corporate Enforcement Group.






The Corporate Enforcement Group (CEG) was started in 2017 with a view to coordinating the enforcement response across the Council under the overarching Corporate Enforcement Strategy. The group has had a number of iterations and the current group comprises of Portfolio Holders, Directors, Assistant Directors and Senior Managers within the Council with the aim to improve and develop the enforcement response across the Authority.

The purpose of the Corporate Enforcement Strategy is to explain clearly and publicly summarise Tendring District Council's intended approach towards enforcement and dealing with non-compliance.

All authorised officers when making enforcement decisions shall abide by this Strategy, and the supporting documented procedures, both within the appendices and departmental processes.

Enforcement enables us to ensure rules are followed in a way that improves outcomes for residents in Tendring. Our investment and wide range of enforcement activity is successfully helping us to keep the district clean and tidy, supports high quality housing, keeps people safe travelling, and ensures better health.

We will exercise our regulatory activities in a way which is:

-  **Proportionate** – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
-  **Accountable** – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
-  **Consistent** – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.
-  **Transparent** – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
-  **Targeted** – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

It is important to understand that “Enforcement” includes any action taken by officers aimed at ensuring that individuals or businesses comply with the law and therefore the term “enforcement” has a wide meaning and applies to all dealings between the Council and those upon whom the law places responsibilities. It is not limited to formal enforcement action such as prosecution, but can include a range of interventions that seek to achieve compliance with the law.

The CEG primarily focusses on significant issues that require a strategic approach to

resolve the problem as well as encouraging services to work together, across boundaries and to take a 'whole' council approach rather than a service only approach. The group also actively seeks the engagement and cooperation of external bodies to encourage joint working.

The group also provides direction and support to the recently formed Operational Enforcement Group that is made up of officers who carry out enforcement as part of their day to day activities.

The CEG has identified, agreed and allocated funds to purchase 4 mobile CCTV cameras and 26 body worn cameras. The group has also set aside funds for additional legal resource and has funded a Case Officer post to support services to ensure that there is continuity in the way that information is collected and recorded across all services, as well as to assist with case file preparation and provide advice and guidance about potential prosecutions as required by taking a cross departmental approach to problem solving and enforcement tactics.

The Operational Enforcement Group (OEG) is still in its infancy, however the group are working to agreed Aims and Objectives and have produced a document that details who takes what Enforcement Action across the Council. The group discusses complex cases that cut across multiple teams in the Council and co-ordinates responses with other agencies such as Essex Police to resolve issues by taking a joint approach.

The OEG members will work together to identify future training needs to ensure that Officers have the skills and knowledge to feel confident whilst carrying out their duties. To date 16 members of staff attended Fixed Penalty Notice training with an outside training provider.

A further proposed package of training for Officers, is shown below;

- **Notices** – drafting, serving, and repairing problems -This training will cover the essentials of drafting in terms of enforcement notices, particular rules concerning the specifying of requirements and ambiguity, categories of recipient, methods of identification and modes of service, rules on appeal, methods to rectify errors and protection on costs.
- **Animal Licensing and Welfare** -This training will cover the basic elements of licensing but will focus more particularly upon investigation, evidence and enforcement in cases of suspected unlawful activities and also other animal welfare concerns.
- **CPN** -This training will cover the elements required for issue of CPW and CPN, tips on drafting and examples of typical scenarios. It will cover aspects of third-party liability (premises related, support or encouragement) reasonable expectations, and wording. The training will also cover case precedent, handling appeals and actions in relation to breach.
- **Criminal Investigation and Enforcement** -This training will provide a general anatomy of evidence gathering, use of statutory powers, PACE, RIPA, case management, disclosure and eventual prosecution.
- **Statutory Nuisance** -This training will cover both the basic identification of, and the processes involved in dealing with, statutory nuisance. Tips will be given on the drafting of notices and the appeals process. In particular, this training will also update officers on the substantial changes in understanding of both common law and statutory nuisance brought about by the Supreme Court in 2014 and the further implications brought about by the Anti-social Behaviour Crime and Policing Act 2014.

- **ASB and Neighbourhood Nuisance** – This training will focus upon general matters of nuisance and complaint concerning residential neighbourhoods, such as waste, vehicular nuisance, animal and noise complaints, combining generic ASB powers, with a focus upon CPN, together with waste and environmental crime solutions.
- **Effectively Tackling ASB** – This training will look at which ASB tools are most effective for local authorities and landlords?

WASTE SERVICES

Fly tipping EPA 1990, Littering s.87 EPA 1990

In 2019 a new Technical Officer was employed within the Street Scene Team to aid the Street Scene Officer with taking a more proactive, proportionate and consistent approach to dealing with fly tipping and littering issues across the district. Within 3 months a new 3 staged warning enforcement process was implemented in line with the authorities 4 E's (Engage, Explain, Educate, Enforce) approach to dealing with enforcement. Over 50 stage one warnings for fly tipping/waste related issues have since been issued with no repeat offenders indicating effectiveness of the 4Es approach.

The introduction of a new fly tipping FPN will also be a useful tool in the arsenal for tackling fly tipping issues as/when required. The fine is set at £400 which is the maximum penalty and we hope this sends a strong message to potential offenders and in turn will deter offences from being committed. It also shows this authority is taking this issue seriously and is willing to invest time and resources to tackling this high profile problem.

Dog Enforcement

This authority has a statutory obligation to provide a stray dog collection and kennelling service, this responsibility moved from the Police to the Local Authority control in 2005. (S.68, Clean Neighbourhoods and Environments Act 2005) The Waste team has successfully continued to provide this service despite recently operating with only one dog warden while one of the post holders was seconded to the Community Ambassadors' team.

Please see below the statistics of collected dogs since 2017

Year	Seized	Collected	Re-homed
2017	123	74	46
2018	82	45	33
2019	75	45	25
2020	23	17	6

On a daily basis the dog warden pro-actively patrols the district and will engage with members of the public and offer verbal advice where required. Under the S.4 OF The Dog Fouling of Land Act 1996 the Dog Warden can issue a FPN for failing to remove dog waste and this carries a fine of £75. With the imminent implementation of the new FPNs and whilst adhering to the 4 E's approach this will offer a new level of enforcement for the dog warden.

The dog warden has also been liaising with outside agencies including the RSPCA and Essex Police and has already attended joint welfare visits and community engagement days throughout the district.

Abandoned Vehicles Refuse Disposal and Amenity Act 1978 s.3

The local authority has a duty under the Refuse Disposal (Amenity) Act 1978 to remove any vehicle abandoned on land in the open air or land forming part of a highway. If the land on which the abandoned vehicle is located is occupied, the local authority must give the owner 15 days' notice that they propose to remove the vehicle.

Over the last 12 months dated between 20th October 2020 to date, we have dealt with approximately 170 potential abandoned vehicles.

Our strict policy ensures a consistent approach and the appropriate use of an external DVLA registered keeper system is paramount to our operating capabilities.

In line with our 4Es approach the aspiration is to encourage owners of potentially abandoned vehicles to remove or deal with them. Ultimately, where removal notices are served, the disposal responsibility is enforced by forwarding to or abandoned vehicle contractor.

Environmental Protection

The Environmental Protection service covers a wide remit of regulatory activity including noise nuisance, situations prejudicial to health, filthy and verminous premises, pests, contaminated land and permitting of polluting processes. The service works in accordance with several pieces of legislation along with the Environmental Services Enforcement Policy.

All the services enforcement is progressive and most service requests require actions by way of letters, phone calls and visits. The majority of the enforcement is carried out in this way and only when there are no other options are formal notices served. Very rarely is it necessary to take a prosecution due to non-compliance. As an alternative to prosecution works in default is used as a quicker alternative that actually brings about remedial action.

The service works with other council services where appropriate such as Licensing and Private Sector Housing. Additionally there is engagement with external agencies such as the Environment Agency and ECC Social Care.

The following figures provide an indication of the level of activity undertaken by the service:

	1/1/16- 21/12/16	1/1/17- 31/12/17	1/1/18 – 31/12/18	1/1/19 – 31/12/19	1/1/20 – 31/12/20	1/1/21 – 31/12/21
Service Requests	1227	1076	1031	997	1133	1157
Notices	37	21	15	14	7	13
Works in Default	unknown	4	6	3	3	2
Court	unknown	1	0	1	1	0

The above figures include all elements of nuisance (such as noise, odour, smoke, and rubbish accumulations), filthy and/or verminous properties, complaints of pests, planning and Licensing. The above figures do not include responses to direct questions, e-mails and actions that officers receive by way of referrals from other departments such as the Customer Contact Centre, Planning, Waste, ASB or Jaywick Wardens.

Environmental Permitted Processes

The services issues permits to 38 different sites under the environmental permitting regulations. This number has remained stable for the last few years. Officers are required to carry out annual inspections on all sites including additional visits when a variation is received, a complaint is received or the site is considered a high risk based on the last visit. We are also required to visit to chase up annual fees. These visits have been limited over the last 2 years due to the pandemic and staff resources require on other duties.

Private Water Supplies

The service regulates 137 private water supplies. These are risk assessed and depending on the level of risk to health there may be requirement to test 4 x per year on the higher risk systems.

Other duties and enforcement

We have 446 identified areas of potential contaminated land. These are only explored in further detail should they be the subject of a planning application?

Private Sector Housing

The Private Sector Housing service regulates housing conditions in the owner occupied and privately rented housing in the district. This includes the licensing of mobile home sites and houses in multiple occupation (HMOs). The service predominantly operates in accordance with the Housing Act 2004 and the following policies:

- Private Sector Housing Enforcement Policy
- Civil Penalties Policy
- Smoke & Carbon Monoxide Policy
- Mobile Home Site Fees policy
- HMO Policy

The majority of investigations are concluded without the need for formal enforcement action. The team aims to work with landlords to ensure compliance but will take enforcement action were it is necessary and appropriate.

Increasingly the service is called upon to provide help to vulnerable residents in the district, with mental health concerns often at the forefront. The service works with other council services and external agencies such as Essex Fire & Rescue, Essex Police, Mental Health services, ECC Adult Social Care. The priority is always to safeguard the health of residents.

The following figures provide an indication of the level of enforcement work undertaken by the service:

- ❖ The number of landlords prosecuted by the council: 0 for all years
- ❖ The number of complaints the council received about private rented properties:
2018/19 - 155
2019/20 - 164
2020/21 – 90

❖ The number of civil penalty notices issued against a landlord or letting agent as well as the total annual sum of the fines. Fines awarded via tribunal in 19/20 - £70,500.00.

❖ The total number of formal enforcement notices served: Hazard Awareness Notices served on private rented sector (PRS) properties.

2018/19 – 4

2019/20 - 2

2020/21 - 0

❖ How many improvement notices have been served in relation to Category 1 and/or Category 2 hazards on PRS properties?

Improvement Notices for both Cat 1 & Cat 2 Hazards

2018/19 – 8

2019/20 – 9

2020/21 – 4

Improvement Notices for Cat 1's only

2018/19 – 6

2019/20 – 7

2020/21 – 4

❖ The total number of formal enforcement notices served: Overcrowding Notice (Housing Act 2004 Part 2) on properties in the PRS.

0 for all years

❖ The total number of formal enforcement notices served: Prohibition Orders served on PRS properties

Prohibition Orders for each year

2018/19 – 5

2019/20 – 12

2020/21 – 7

Food Safety, Health & Safety, Animal & Beauty Licensing

This team is responsible for the regulation of businesses in the district and the investigation of accidents and infectious diseases.

The food safety and standards work undertaken by the team is regulated by the Food Standards Agency (FSA) and the team is required to have a Food Safety Service Plan. Due to the impacts of the COVID-19 pandemic on food inspections nationally the service is currently working in accordance with the FSA Local Authority Recovery Plan that sets out a plan through to March 2023 for the inspection of food businesses. Over 300 new businesses started up during the pandemic.

The team also regulates certain licensable activity including beauty treatments and animal establishments such as dog/cat boarding kennels and pet shops. Animal licensing was subject to significant legislative changes and increased regulation a few years ago.

Formal enforcement action is always a last resort after informal or voluntary action has not resulted in compliance. Almost all inspections will be followed up with recommendations for improvement. The aim is to work with businesses and this supports the Council's Back to Business Initiative.

The table below provides a flavour of the volume of work undertaken:

Business Types/No	Visits annually	Enforcement
All food businesses approx. average. 1200 in total	550 on a risk based approach Approx. 70 complaints are also investigated, these are food complaint or premises complaints	16 Food Safety notice during 2020/21
Health and Safety	All food businesses are looked at for H&S in line with food inspection, approx. 30 RIDDOR reports are investigated along with 20 H&S complaints	This year 1 prohibition notice served on a night club who opened during Covid
Cat and dog boarding establishments	14	Licenses are issued in line with the businesses star ratings and conditions attached. If there is non-compliance a license is not issued. To date we have not had to refuse a license and no enforcement action has taken place. All are visited annually for their license - 50 visits plus others for checks and support so the total is approx. 90 visits per annum
Dog Breeders	4	
Day Care for dogs	1	
Home Boarding	12	
Pet Shops	9	
Riding establishments	6	
Exhibiting animals	3	
Dangerous Wild Animal License	0	
Zoo	1	
Tattooing/skin piercing	120	All are visited annually. No formal action taken

Tenancy Management and Rents

The Tenancy Management and Rents service manages the tenancies of the Council's over 3,000 homes and 350 garages. This includes 250 blocks of flats. The work includes the enforcement of tenancy conditions and the collection of rent.

The service is signed up to the Anti-Social Behaviour (ASB) Charter for landlords. This demonstrates a commitment to provide a high standard of service for dealing with ASB through seven core commitments including - Prevention, Early intervention, Being accessible, Being accountable and working with victims. The Charter provides guidance on how to categorise complaints.

Tenancy Management: In 2020 89 Notices to Quit/ Notice of Seeking Possession for breaches of tenancy were served. For reasons of a mixture of fraud, abandonment, non-

occupation, gas servicing non access, ASB and drugs.

In 2021 64 Notices to Quit/ Notice of Seeking Possession to date for breaches of tenancy have so far been served. There are several levels of warning/ final warnings before notices are served. It really is a last resort.

49 properties have been recovered in the last 3.5 years where we have proven sub-let / non occupancy. The Council's Fraud team have used their powers to fact find, then we have applied tenancy conditions and recovered the properties through a mixture of Court hearings and the tenants voluntarily giving the keys up (to avoid them a Court hearing / costs). This is nearly two properties a month.

Evictions were reduced in 2020 & 2021 due to COVID. 2019 gives a good idea of the norm when 19 took place and this is a typical figure.

The service contributes to the detection and prevention of financial fraud in our housing stock. This is where tenants are illegally claiming i.e. single person Council Tax discount or benefits when they are working, etc... Whilst not necessarily a breach of tenancy it is financial fraud that is then picked up by the Council's Fraud Team.

Notices for rent arrears. Prior to COVID notice was served after approx. 6-8 weeks arrears. COVID legislation moved this to 6 months' worth of arrears before we could action. We serve on average 5-7 notices a month for rent arrears.

The table below provides an indication of the level of ASB complaints that are received and investigated each year.

	Up to 30.06.2021	2020	2019
ASB Types			
Abandoned Cars	0	4	2
Alcohol Related Nuisance	0	2	1
Communal Areas	37	87	63
Communal Cleaning	4	4	9
Criminal Behaviour / Crime	8	16	11
Domestic Abuse	5	3	1
Drug/Substance Misuse & Dealing	6	31	12
Garden Nuisance	43	81	106
Hate Crime	0	3	2
Noise	65	149	147
Non Occupancy & Tenancy Fraud	24	33	36
Pets and Animal Nuisance	13	26	37
Physical Violence	0	3	0
Prostitution	0	1	0
Rubbish	88	141	95
Vandalism & Damage to Property	14	25	33
Vehicle Nuisance	15	31	31
Verbal Abuse	20	60	65

TOTAL	342	700	651
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LICENSING

The Licensing section works under a framework of statute and Council policy, these are:

- **Licensing Enforcement Policy** – Provides all regulatory activities by the Licensing Section will be conducted in a way that is transparent, accountable, proportionate and consistent. Activities will, so far as possible, be targeted only at cases in which action is needed.
- **Licensing Policy** – Provides how the council acting in its capacity as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that local residents, businesses, visitors to the District and local communities need and expect. References in this Statement of Licensing Policy to the Licensing Act 2003 are references to the Act as amended.
- **Licensing Act 2003** – Provides clear transparent framework and making decisions on individuals and premises wishing to sell or supply alcohol, regulated entertainment and late night refreshment.
- **Local Government (Misc Prov) Act 1976 / 1982, Local Government Act 2000/1972, Road Safety Act 2006, Town Police Clauses Act 1847 / 1889** - Provides transparent framework and making decisions on Hackney Carriage and Private Hire Drivers / Vehicle licensing which includes being fit and proper.
- **Police and Criminal Evidence Act 1984** – PACE interviews - Questioning of licence/permit holders and other persons will be carried out as a formal interview where there is suspected involvement in criminal offences. All interviews shall be conducted with regard to the above Act and associated Codes of Practice.

Officers work jointly with a number of teams throughout the Council including the noise pollution team and ambassadors. This identifies if a department has had any correspondence with a premises which could potentially fall into remits of other expertise.

As part of the joint working, licensing work with Essex Police on a monthly basis where a number of licensed premises are inspected in the evening / weekend. This identifies how busy the premises are, gives the opportunity to speak with the management and see how they are running the premises.

Joint visits with the police and the noise pollution team are also used when applications come in for a premises that need further assistance on how they are operating. For example if the responsible authorities disagree with a condition, mediation will be used to try and resolve the issue before going to review.

Premises

The joint work that the Licencing team undertakes with Essex Police falls under Operation Benison. This Operation has a target (set by Essex Police) of visiting 10 licensed premises every month offering advices and guidance with the aim of reducing the number of CPNs or License reviews that need to be undertaken.

During the pandemic (2020 and 2021) the Operation Benison checks were temporarily suspended, however licensing staff undertook covid checks with ambassadors. Our records show that 241 premises were visited. During the checks 168 premises were closed as per covid requirements, 35 premises were open but no advice was needed as they were adhering to all requirements, 12 premises received advice regarding the use of

marquees (how much should be open and where it can be placed), 6 premises were given licensing advice regarding the licences being displayed and the noise levels emitting from the premises, 20 premises were given advice regarding covid measures (risk assessments, QR codes, social distancing).

Since 2017, 7 premises have been called to Committee for Members to determine a review application submitted.

Essex Police supported by the Immigration Authority submitted 4 reviews against premises who were found to be employing persons who had no rights to stay or work within the UK. These resulted in the licence holder and designated premises supervisor to be removed from the licence and the licence to be transferred to a different person.

There have been 2 premises reviews submitted by Essex Police during the pandemic. The 1st premises, since the relaxation of the covid lockdown rules they have breached the licensing objectives for crime and disorder and public nuisance on numerous occasions resulting in calls to the police and the disruption of neighbours. This licence was suspended and the designated premises supervisor removed. The 2nd premises was a breach of the Health Protection (Coronavirus Restrictions) (No2) (England) Regulations 2020 where the premises was found by the police to be operating as a nightclub/venue providing music and dancing. This resulted in the licence being suspended for a fixed period.

There has also been 1 review submitted by Essex Police for the breach of crime and disorder whereby the members of staff and those involved with the management of the premises were being investigated by the Police for GBH on a member of the public. This licence was originally suspended, however the licence holders have appealed the decision and an appeal is still in progress.

Taxi Drivers

Between 2017 and 2021, 11 newsletters have been sent to licensed taxi drivers containing information to ensure they are kept aware of any forthcoming changes such as changes to the Equality Act involving wheelchair accessible vehicles, changes to the Immigration Act, request for a fare tariff increase, changes to the policy regarding MPV's.

The newsletters also included reminders to drivers of their responsibilities following complaints received from members of the public and also observations made by the Licensing Team such as the need for them to notify the team when they receive any convictions (motoring or criminal), that smoking is not permitted in taxis at any time and the importance of them submitting documentation at the required times.

During the pandemic these newsletters also included advice on how to keep themselves and their passengers safe whilst working, the financial help that was available to them and the changes to MOT rules and medicals.

Since 2017 there has been the need for 17 drivers to attend the Licensing Miscellaneous Sub-Committee, the reasons for these have varied from non-disclosure of motoring offences which have shown up when officers have conducted the routine checks as part of the application process to requests from drivers to temporarily suspend their licences due to ill health.

These decisions were not able to be made by officers as they do not have the relevant authority to deal with these issues. These were determined by Members of the Committee and those whose licences/requests were granted have had no reason to attend again

since.

There have been 2 drivers to date whose licences have been reviewed following information received from the Police regarding crimes that have been committed these have included drug offences and sexual assault on a minor. Members determined that these drivers licences should be revoked.

PLANNING ENFORCEMENT

The Planning Enforcement function of the Council undertakes pro-active monitoring of development on large residential developments with regular visits to check for compliance with planning conditions and legal obligations at different stages of development – this involves regular liaison between Officers, the developers and their site managers.

Enforcement action against unauthorised development on other sites, including breaches of planning conditions (which can cover an extremely wide range of sites and issues) is generally undertaken in a more reactive manner in response to complaints from members of the public, Councillors or other interested parties. Enforcement of planning control is a discretionary function of the Council and it is not always expedient, or in the public interest to pursue every case through to formal enforcement action or prosecution.

Planning Enforcement falls under the Town and Country Planning Act 1990 in terms of the legislation which supports any required action. Serving of an enforcement notice falls under section 172 of the act. Section 215 notices requiring the clearance and tidying of land or buildings also falls within this legislation. The content of adopted or emerging Local Plans, along with the National Planning Policy Framework is also critical in determining whether planning enforcement action should be taken.

In line with the Council's current Enforcement policy, which is due to be updated this financial year, complaints are logged and investigated to determine whether or not, in fact, there has been a breach of the planning rules. In cases where a breach is found, the starting point is to inform the property owners of the breach and to advise them to apply for the relevant consent (normally planning permission) in order for the development to be properly considered through the planning process and potentially regularised – rather than proceeding straight away to more formal or even legal action.

The type and scale of enforcement cases dealt with by the Council varies significantly ranging from perhaps the unauthorised erection of a boundary fence to the unauthorised development of land or buildings. In the past 12 months 374 enforcement cases have been opened or reported with the majority of cases closed or dealt with relatively quickly. In most cases individuals seek compliance with the remedy as required by the enforcement team – this may be by ceasing the unauthorised use or submission of a planning application to formalise the use or works. As such the need to serve formal enforcement notices as a result is relatively low. Just five formal enforcement notices have been served where the need for formal action has been required.

To help ensure any action is proportionate and represents an efficient use of the resources available in what is a small team, Officers when assessing an alleged breach will undertake a 'Harm' assessment. The Harm assessment is a preliminary assessment of the breach against a set of criteria to determine the severity of the breach and the likelihood of planning permission being granted if an application were to be submitted.

The finding of the Harm assessment will help to determine whether or not it would be expedient to carry out further formal action in the event that the breach remained

unresolved. Often the request for an application does resolve the issues at hand and avoids the need for further formal action. The Harm assessment itself is in the process of being updated and improved to ensure that enforcement cases are being dealt with in a consistent manner and appropriate outcomes achieved.

In some circumstances where an unlawful and harmful development is operating or in progress, it may be expedient to stop activity on a site and the Council can issue a 'stop notice' demanding that activities cease whilst further investigation is undertaken. In extreme cases, the Council can apply to the courts to take out a legal injunction requiring a halt to activities – but these cases are rare, the courts are not always willing to agree to an injunction and the resource implications are high. In other cases, the Council can serve a formal enforcement notice requiring an unlawful activity to cease within a certain number of days – or face the possibility of legal prosecution. In these cases, the owner does have the right to appeal against an enforcement notice and these cases will be considered by the Planning Inspectorate and the resolution will either be to quash or uphold the notice – a process that can result in cost and delay.

BENEFIT ENFORCEMENT

The Council is not responsible for investigating Housing Benefit Fraud as this is now undertaken directly by the DWP's Single Fraud Investigation Unit. If the Council became aware of possible fraud as part of its own fraud and compliance work, it would refer the necessary details onto the DWP.

If the right criteria is met, the Council can undertake joint investigations with DWP – however this is not currently possible following the DWP still working towards business as usual following the pandemic.

However the Council does take a proactive compliance approach by 'correcting' claims for housing benefit where there is evidence to do so.

In terms of claims for support under the LCTS Scheme, this is a discount rather than an award of benefit and similar to the above, the focus leans more towards compliance rather than formal fraud investigations to balance cost / benefit considerations.

Business Rates Recovery

In respect pursuing unpaid Business Rates, this is set out in associated regulations, which covers the issuing of demand notices, reminders, summonses, obtaining liability orders and associated enforcement activities. There are 3 separate scenarios leading to the issue of a summons depending whether the customer makes payment and maintains ongoing payment.

Scenario 1

- Demand Notice
- Reminder Notice - Instalment not being paid within 7 days of the date it fell due
- Summons - If the balance on the Reminder Notice is not settled within 7 days of the date of issue of the reminder

Scenario 2

- Demand Notice
- Reminder Notice - Instalment not being paid within 7 days of the date it fell due
- 2nd Reminder – If the balance is paid on the Reminder Notice and the instalments

fall into arrears thereafter, a 2nd Reminder Notice is issued

- Summons - If the balance on the 2nd Reminder Notice is not settled within 7 days of the date of issue of the reminder

Scenario 3

- Demand Notice
- Reminder Notice - Instalment not being paid within 7 days of the date it fell due
- 2nd Reminder – If the balance is paid on the Reminder Notice and the instalments fall into arrears thereafter, a 2nd Reminder Notice is issued
- Final Notice - If the balance is paid on the 2nd Reminder Notice and the instalments fall into arrears thereafter, a Final Notice is issued which cancels the right to pay by instalments and requires the balance remaining for the year to be settled
- Summons - If the balance on the Final Notice is not settled within 7 days of the date of issue of the Final Notice a summons is issued

After the issue of a summons;

- Liability Order – once a summons has been issued the Council will attend court on a date set to obtain a Liability O
- rder at the hearing
- 7 Day letter – once a liability order has been granted a 7 day letter is issued to the customer informing them that the Council is in possession of a Liability Order and that they have 7 days to make contact to discuss payment arrangement
- After the 7 days the Council has limited remedies open for collection, issue the Liability Order to the Councils Enforcement Agent or Insolvency
- The Council will always look where possible to engage with the customer to facilitate payment arrangements and offer where possible arrangements to settle accounts in year, but will offer flexible arrangements to go over into a new year where necessary.

RECOMMENDATION

That the Committee determines whether it has any comments or recommendations it wishes to put forward the relevant Portfolio Holder or Cabinet.