

BASSETLAW DISTRICT COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

25 JUNE 2013

REPORT OF DIRECTOR OF CORPORATE SERVICES

ENFORCEMENT

Portfolio Holder: Policy and Community Engagement
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1. Public Interest Test

- 1.1 The author of this report has determined in preparing this report that the contents are not of a confidential nature.

2. Purpose of the Report

- 2.1 To provide members of the Committee with an overview of enforcement activity in the Council in the areas of planning, licensing, anti-social behaviour and environmental health (regulatory and neighbourhood teams).
- 2.2 To determine if Members wish to recommend any changes to the Council's enforcement approach in these areas and if so to make recommendations to Cabinet for their consideration.

3. Background and Discussion

Definition

- 3.1 Before exploring the evidence heard on 19 March by the Overview and Scrutiny Committee about the Council's approach to enforcement in a number of key areas it would be useful to confirm a definition of enforcement as it applies in Bassetlaw. It is a common misconception that enforcement is simply the legal action the Council takes to prohibit certain actions and behaviours. Typically this would result in action at Court resulting in prosecutions and potentially fines for the offenders. However, this only describes one element of our approach. There are a number of strands to the way we tackle enforcement in Bassetlaw which could be loosely described as: -

Level 1	Education Advice/information Training
Level 2	Informal Action – letters pointing out areas for change/improvement
Level 3	Intervention - Warning letters/cautions
Level 4	Low level legal action e.g. Fixed Penalty Notices

Level 5 Formal prosecutions through the Courts – e.g. Injunctions, ASBOs

See Appendix 1 for details of the Bassetlaw District Council enforcement approach in key areas

What is a good practice approach to enforcement?

3.2 Enforcement needs to be fair, robust and transparent. It should be easily understood by the public and easily implemented by officers. A successful approach will clearly be based on our statutory powers and duties and should achieve our objectives. In the service areas the Committee has looked at the aim is to: protect the quality of life of residents, reduce nuisance, protect our area from environmental damage, protect the integrity of our planning policies, ensure food safety, and the health and safety of citizens/ employees of local businesses. The objective is not to prosecute offenders. Successful enforcement approaches must therefore achieve a balance between the scale of problems and available sanctions. The resulting approach should be cost effective. This is often described as a proportionate response.

3.2.1 A robust enforcement approach should also follow National Guidelines. In March 1998 the Cabinet Office published the central and local government Concordat on Good Enforcement. The Enforcement Concordat as it is known is a voluntary, non-statutory code of practice. It sets out the principles of good enforcement which are: -

Standards – setting clear standards
Openness: clear and open provision of information
Helpfulness: helping business by advising
Complaints about service: having a clear complaints procedure
Proportionality: ensuring that enforcement action is proportionate to the risks involved
Consistency: ensuring consistent enforcement practice

3.2.2 The Regulators Compliance Code is a statutory instrument applying to environmental health, trading standards and licensing areas of enforcement work. It was the product of two reports in 2005 and 2006. Firstly the Hampton Report, 'Reducing Administrative Burdens: Effective Inspection and Enforcement' and secondly Professor Richard Macrory's report 'Regulatory Justice: Making Sanctions Effective'. Both of these contributed to the Legislative and Regulatory Reform Act 2006 – implemented in 2008. The Macrory Principles were embodied by the legislation from which the Regulators Compliance Code emerged. They provide a sound basis to enforcement.

3.2.3 Macrory's Principles provide for a flexible and proportionate approach with a broad range of sanctioning options allowing regulators to respond to the needs of individual cases. Applying the appropriate sanctions improves overall compliance and adds credibility to the enforcement process. The Macrory Principles include six penalty principles and seven characteristics for the design of an enforcement regime. They are: -

Six Penalty Principles

A sanction should: -

1. Aim to change the behaviour of the offender
2. Aim to eliminate any financial gain or benefit from non-compliance

3. Be responsive and consider what is appropriate for the particular offender and regulatory issue
4. Be proportionate to the nature of the offence and the harm caused
5. Aim to restore the harm caused by regulatory non-compliance, where appropriate
6. Aim to deter future non-compliance

Seven Characteristics

Regulators should:

1. Publish an enforcement policy
2. Measure outcomes not just outputs
3. Justify their choice of enforcement actions year on year to stakeholders, Ministers and Parliament
4. Follow-up enforcement actions where appropriate
5. Enforce in a transparent manner
6. Be transparent in the way in which they apply and determine administrative penalties; and
7. Avoid perverse incentives that might influence the choice of sanctioning response

- 3.2.4 All the Bassetlaw District Council officers advised Members how they followed the Enforcement Concordat at our meeting on 19 March 2013. The Concordat and its principles are referenced in the Council's Enforcement Policies and within the Constitution. The Regulators Compliance Code was also referenced by Environmental Health. Members can see more detail from each service area on how they adopt these best practice principles – see Appendix 2.

Public Perception

- 3.3 The issue of enforcement is an emotive one. Planning breaches, contraventions of licensing conditions, litter control, fly-tipping, dog fouling, the health and safety/food safety of premises can all provoke Member and community concerns. This is evidenced in feedback from our residents in a variety of consultation exercises examples of which are detailed below at 3.10.
- 3.4 Elected Members are regularly challenged about the Council's approach to enforcement in their communities. That is why this topic was raised by a number of Members for inclusion in the 2012/13 Scrutiny Work Programme and why this has been raised consistently as a topic for review in previous years. The topic was last considered in 2008/2009. Rightly or wrongly there has been a perception amongst Members and some parts of the community that the Council does not take enforcement action in a pro-active, consistent way.

The Evidence

- 3.5 The task of the Overview and Scrutiny Committee therefore was to hear evidence from key officers from Planning, Licensing, Anti-Social Behaviour and Environmental Health within the March meeting of the Committee to find out: -
- how enforcement is tackled
 - the rationale for this approach
 - the resources available for this activity and
 - recent enforcement action/outcomes

A summary for each service area can be found at Appendix 1
Appendix 2 – provides a detailed record of the question and answer session held on 19 March and written answers submitted after that date.

The Methodology

- 3.6 The scrutiny approach was a new one for the Committee and it was a challenge to be able to adequately explore key issues within a very tight time allocation.
- 3.6.1 This was not a review where Members have had numerous meetings and met over many months or indeed have spent day(s) in closed session hearing evidence and considering their response.
- 3.6.2 However, with pre-planning, pre-circulation of information, supplying questions in advance and dealing with requests for follow up information Members should now have a good understanding of our enforcement approach in the areas identified. Members will also be able to make some informed judgements with regard to the Council's approach to enforcement.
- 3.7 As we move to a new model of delivering scrutiny in Bassetlaw with a focus on work within Committees rather than Select Panels the enforcement review was also an opportunity to trial a new way of working. There is also a desire from officers to reduce the volume of information that goes to Members in the form of a final report. The challenge is to provide the right information that is concise but still paints a clear picture for Members from which they can draw logical, evidenced based conclusions. So the style of report presented to Members is different in the same way as the methodology was different.

Summarising the Council's response to enforcement – (full details at Appendix 1)

- 3.8 Planning
Discretionary function – the Council does not have to take enforcement action – although planning enforcement is seen as integral to a good practice planning service Protocol in place setting out the Council's approach – features on the Planning pages of the Council's website
Complaints about potential breaches must be in writing and cannot be anonymous
Reports are categorised according to the risk to the environment, public health and integrity of the Council planning policies – the response is also linked to these risks
Each type of case has a response time

Licensing

Previously ad hoc approach to premises inspection and vehicle inspection – reactive in response to customer complaints
Collaborative approach with applicants for licences
Promote the four licensing objections (prevention of crime and disorder, protection of children from harm, public safety and prevention of public nuisance)
Planned programme of inspections now in place so that premises and vehicles will be visited on an agreed number of occasions each year/regular inspections carried out
Working with partners to review licensing issues in relation to the night time economy
Working well with service departments – both to carry out service specific legal work but also on licensing enforcement issues
Managing workloads
More resources now within the Council will require less work to be outsourced
Work will still be outsourced where appropriate e.g. where specific expertise needed

Anti-Social Behaviour

Recently co-located with A1 ASB Officers/Manager – proving beneficial i.e. joint approach, share information, can work together on cases

Reactive service in response to complaints of ASB

Also do targeted work in areas that are known to have high incidence of crime and asb

Wide range of powers available

Recently changed focus to hard edged enforcement – away from a “mediation/restorative justice approach”

Still do education – work in schools, events – but there is limited time available for this

Risk assess cases – various courses of action according to severity

Guiding principles of the service – prevention, intervention, enforcement, rehabilitation

Will be preparing for new ASB powers which are going through legislative process at the moment

Environmental Health Regulatory

Focus on business - areas of work include food safety, health and safety, pollution control

Also regulatory and enforcement responsibilities for tattooists, sun bed operators, animal boarding and caravan sites

Operate Food Hygiene Rating Scheme

All actions of the team are focussed on supporting compliance

Actions and interventions focus on the need to avoid breaches of legislation by businesses

Wide area covered – therefore can be a challenge to keep skills totally up to date in every area – but service address this in a variety of ways

Part of Council Enforcement Group and find this useful for sharing knowledge and joint working

The service will be facing changes to the way health and safety inspections with a move from unannounced inspection. This is a cause for concern – in that it is seen as a retrograde step to become a more reactive service. This is a matter outside the individual service's control

Environmental Health (Neighbourhood)

Main role includes: - neighbourhood issues: - noise from domestic and commercial premises, dog fouling, dog control, littering, flytipping, flyposting, graffiti, smell nuisances, light pollution

Also lead for enforcement of housing standards including enforcement of licences for houses in multiple occupation

Securing empty properties/derelict sites

Dealing with filth premises/properties with risks from vermin

General public health complaints

Private drainage

Smoke control

Range of successes in enforcement across this spectrum of activity. Also see success as compliance and avoidance of need to prosecute

Support value of the Council's Enforcement Group

Public Profile

- 3.9 One of the key issues Members have raised is the public profile of enforcement action. Appendix 3 details the numbers of press releases issued since April 2012 to May 2013 in relation to enforcement action taken by the Council. Members will see that 26 press releases were issued – all of which were featured in the media. Some enforcement action received particularly high profile media coverage e.g. flytipping offence near Ranby prison, flytipping at Manton Pit Wood, 'Pick it up or Pay' campaign for dog fouling in Worksop – including the launch of the use of pavement signs to promote the message "Pick up or pay", jail sentences for breaches of injunction, ASBO for offender in Bircotes and a food hygiene prosecution for Worksop restaurant. These are just a snapshot of the coverage achieved for the enforcement activity of the Council over the last 12 months. The Council is now increasing its use of social media to increase the public's understanding of the work of the Council.

Consultation Feedback

- 3.10 83% of respondents in the latest Nottinghamshire Satisfaction Survey (2012) said they were satisfied with Bassetlaw as a place to live

In the same 2012 Satisfaction Survey Nottinghamshire residents were asked about their perceptions of anti-social behaviour under a number of strands. They were asked to state whether they believed a particular strand of anti-social behaviour was a problem. The results were as follows for Bassetlaw: -

Percentage	Issue perceived to be a problem
13%	rubbish or litter lying around
14%	groups of (teenagers) hanging around the streets are a problem
10% -	being drunk or rowdy in public places
10%	people using or dealing drugs
8%	vandalism, graffiti and deliberate damage to property or vehicles
10%	noisy neighbours or loud parties
3%	people being attacked/harassed because of their skin/ethnic origin/religion

- 3.10.1 The Council has also carried out its own survey earlier this year about the possible introduction of Dog Control Orders. Extracts from this survey are shown below: -

Percentage	Issue perceived to be a problem
92.6%	of respondents in the recent Dog Control Order Survey conducted by the Council over eight weeks concluding April 2013 said that dog fouling is a problem in Bassetlaw
88%	believed Dog Control Orders should be implemented

Comparative Data

- 3.11 Members were interested in comparative data on enforcement – particularly in relation to dog fouling and littering offences. When officers were questioned at the Overview and Scrutiny Committee they confirmed that they do not specifically benchmark their enforcement data. They do work with their peers in a variety of networks and share information but this does not go as far as to compare specific enforcement activity/outcomes. Details of recent enforcement action can be found within Appendix 1.

3.11.1 In order to try and satisfy this request from Members a call-out was made to other local authorities in the East Midlands requesting details of enforcement action across the areas of planning, environmental health, anti-social behaviour and licensing. This did not yield a good response and the information is not considered to be reliable because the response was so limited. Of the responses we received it was interesting to note that Mansfield had issued literally hundreds of fixed penalty notices for littering and dog fouling. This is because they employ uniformed Neighbourhood Wardens. There are 16 in total and they are linked to specific wards within the District. Part of their remit is to target these offences. However this is clearly an expensive option.

3.11.2 What we did manage to access was some comparative data from APSE (Association for Public Service Excellence) regarding dog fouling and littering for the financial year 2011/2012. This data allows Members to compare our performance with our family group. The family grouping attempts to bring together like authorities operating under similar circumstances. Factors that determine which family group you are assigned to include: population, deprivation, total road length, population density, balance between planned/reactive work, mechanical/manual work split etc. This information is featured at Appendix 4.

3.11.3 A number of Members were particularly interested in how we compared with Newark and Sherwood for the number of enforcement actions taken for littering, dog fouling and fly tipping. The following table shows the action taken by Newark and Sherwood compared with Bassetlaw District Council. This information shows that Bassetlaw generally performed well when compared to the activities of Newark and Sherwood.

District	Newark			Bassetlaw		
Year	2010	2011	2012	2010	2011	2012
	Issued	Issued	Issued	Issued	Issued	Issued
Fly Tipping	3	4	1	33	25	31
Litter	2	1	5	4		2
Dog Fouling	3	7	3	0	0	2

3.11.4 **Any comparative data like this must, however, be treated with caution because we may not be comparing “like with like”. Clearly our resources, the way they are deployed and how we prioritise littering and dog fouling offences will vary from other authorities.**

3.12 **Situational Analysis -** The table below provides an at a glance view of the Council's approach to enforcement activity based on the evidence received.

STRENGTHS	OPPORTUNITIES
<i>Increased focus on enforcement and raising the profile of the Council's approach over the last 12 – 24 months. Number of successful prosecutions dramatically increased</i>	<i>Member Training – training sessions to share the Council's approach on enforcement could be planned – to share knowledge beyond the Overview and Scrutiny Committee. Members would then be in a better position to cascade information in the community about the Council's approach to enforcement</i>
<i>New Environmental Crime Policy and dedicated</i>	<i>Income generation – Some authorities provide food hygiene</i>

STRENGTHS	OPPORTUNITIES
Environmental Enforcement Officer to lead approach on enforcement on littering, dog fouling, fly-tipping, flyposting, graffiti, abandoned vehicles	training as an income stream – this could be explored by Environmental Health Regulation Team. There is expertise in the team to do this – however there is no current capacity
Increased media coverage – 26 press releases over the last 12 months – high profile coverage achieved	Enforcement Charter and Plain English Guide to Enforcement – would help our communities understand what we are doing and why
Improvements in processes and clarity of our approach e.g. new planning protocol, target times to follow up notifications of suspected planning breaches. Joint working with A1 on ASB issues	Provide regular feedback to Members on Enforcement Activity - this has started in the Members Information Bulletin and should continue
Creation of Council Enforcement Group	Eyes and Ears Campaign - work with community groups – ask them to report incidents of littering, dog fouling, flytipping etc. and promote protection of the environment We could also link to the national Tidy Britain Campaigns around dog fouling – and benefit from this publicity
Reference to National Standards – the Council follows the Enforcement Concordat policy, procedures and good practice and Regulators Compliance Code	Benchmark our approach with relevant authorities – with similar resources and approach – publish this information for Members and in a form suitable for the community
Approach is proportionate and based on risk – e.g. ASB, Planning and Environmental Health Regulatory	Promote the area – Safe food, safe businesses, clean communities, well run licensed premises and properly managed planning process are a good way of promoting the area – it is also good for business
Departments are working well with the Council's Legal Team – commending the quality of legal advice and/or referral to external support where needed	Community Benefits – continue to promote the human benefit/community benefit of a robust enforcement approach e.g. case studies – anti-social behaviour to sustain interest by the media
Backlog of planning cases cleared in respect of suspected planning breaches Cross referral of cases between Planning and Building Control	Cascading learning e.g. where officers are building up skills in attending Court and preparing case files – this can be shared
Engagement with business forums - by Environmental Health Regulatory Team to raise profile of need for compliance	Targets – set clearer targets for enforcement activity – so there are clearer expectations on services from both Members and the community
Joint ASB Team (BDC/A1) have increased skills and now prepare files and take cases to Court	Have a more detailed forward work programme for targeting dog fouling and littering offenders – Refresh the targets to include targeting 10 hot spot areas within the year and increasing the patrolling hours by 50%. This would be achievable and has been agreed with the service
Planned timetable of inspections now in place for Licensing	Ensure strong links with the newly appointed Environmental Crime Officer and the Environmental Development Officer to ensure optimum use of resources. Could these officers work as one team – particularly on the education side?
Enforcement posts now recruited to in all areas e.g. Licensing/Environmental Health new post	Night Time Economy – the Council is working with partners to explore how new licensing powers can be used and how the night time economy of Bassetlaw can be improved
Designated Dog Bins – installed across the District at key points	Report to Cabinet annually on enforcement activity

CHALLENGES	THREATS
Council Enforcement Group – could have a more flexible membership – bringing in relevant officers at different times if there is a need for joint action e.g. Community Safety Co-ordinator is not a member	Limited feedback from service users on the Council approach and the services we offer
Could stakeholders be more involved in developing the Council's approach to enforcement? - as recommended by the Enforcement Concordat	Resources – on-going pressure on funding. Will this jeopardise the funding of key enforcement posts – particularly where the roles are not statutory e.g. planning?
Member perception/community perception – this is an	We can never do enough – We have to accept that enforcement

CHALLENGES	THREATS
<i>on-going issue – Members need to feel more confident that the Council is taking an appropriate level of enforcement action that is commensurate with its legal responsibilities</i>	<i>is only one of the activities of the Council and we can only deliver within the resources available – this may never satisfy public demand</i>
Presentation and Accessibility of Information – it is not easy for a layperson to navigate their way around the Council's website to find out how we tackle enforcement. A single landing page should be created for enforcement with links in to relevant service departments.	Enforcement rather than an educational focus within anti-social behaviour i.e. less time spent on the prevent agenda
Changing behaviour – the aim of enforcement action is to change behaviours. This is particularly true in the area of anti-social behaviour. The results of some enforcement action can be short-lived unless supported by other interventions to achieve a change in the longer-term. So the achievement of ASBOs and Injunctions cannot be viewed as successes in isolation.	Proposed changes to health and safety inspection regimes – mean that routine unannounced inspections will not be permitted. The unannounced inspection currently acts as a useful stimulus for compliance

4. Implications

- a) For service users
A robust and proportionate approach to enforcement should increase confidence in the Council.
- b) Strategic & Policy
The theme of enforcement fits with the Council's ambitions within the Corporate Plan – Ambition Four – to be a Well Run Council and Ambition Three – Involved Communities and Locality Working.
- c) Financial – 14/871
None from this report.
- d) Legal – 185/06/13
In carrying out scrutiny reviews the Council is exercising its scrutiny powers as laid out in s.21 of the Local Government Act 2000 and subsequent legislation which added/amended these powers e.g. the Local Government and Public Involvement in Health Act 2007.
- e) Human Resources
None from this report.
- f) Community Safety, Equal Opportunity, Environmental

The Overview and Scrutiny Committee is committed to equality and diversity in undertaking its statutory responsibilities and ensures all Panel Reviews undertake an Equality Impact Assessment.
- g) Whether this is a key decision, and if so the reference number.

No

5. Options, Risks and Reasons for Recommendations

- 5.1 Members have had an opportunity to receive evidence and question key officers about the Council's approach to enforcement, in the areas of planning, licensing, anti-social behaviour and environmental health. Members may be satisfied that the Council is doing everything it can within available resources and within its legal powers to tackle enforcement issues and that the Council's approach is consistent with good practice.
- 5.2 Members may wish to recommend some amendments to the Council's enforcement approach to further strengthen the Council's response.
- 6. Recommendations**
- 6.1 That Members consider the report and decide if they wish to make recommendations to Cabinet regarding the Council's approach to enforcement in planning, licensing, anti-social behaviour and environmental health.

Background Papers
Enforcement Information Pack
produced to support review

Location
Policy and Scrutiny Unit, QB

REVIEW OF ENFORCEMENT ACTIVITY – Anti-Social Behaviour

Describe your approach to enforcement (what do you do and why?)

Our approach to enforcement is relatively straight forward; if someone, or a group of people, are having an impact on their local community in relation to anti-social behaviour and the evidence is available we will look to address the problem through the Civil Court by applying for a court order e.g. Anti-Social Behaviour Order or an Anti-Social Behaviour Injunction. We also have other powers we can use in terms of dispersal, crack house closure and Gating Orders.

The key to successful enforcement is public and community trust and their willingness to support action by providing witness statements and attending Court to give evidence.

However the granting of a Court Order is not the end of the journey and often this is not explained to the public who sometimes expect the behaviour to stop because of the granting of the Court Order. However, that is not in the Court's power or ours. The change in behaviour has to come from the perpetrator and if not then we continue to need the public's support in terms of reporting and providing evidence of breaches of Order where no statutory partner evidence is available.

This can create a bit of revolving door approach to enforcement but it is one that gives the public short term respite from the anti-social behaviour of others.

Therefore in short: -

- We receive ASB reports
- We investigate
- We act appropriately and proportionately
- We may apply to the Court
- We attend court
- We serve papers on the perpetrator
- We manage the orders and breaches

What are the key enforcement powers you have?

Anti-Social Behaviour Order on conviction (ASBO)

ASBO on application

Anti-Social Behaviour Injunction (ASBI)

Designated Public Place Order

Gating Orders

Dispersal Order (s30 of the ASB Act 2003)

Direction to leave (s27 of the Violent Crime Reduction Act 2006)

Premises Closure Order

Crack House Closure Order

How successful has your approach to enforcement been? – provide details of your success

I guess it is how you define success. In terms of providing community respite, then I would say the enforcement policy has been successful with:

- 4 Stand-alone ASBO's
- 10 ASBI's
- 4 Court undertakings that emanated from other ASBI applications
(All action within the past 12 months).

Extended Designated Prohibited Place Order in both Retford and Worksop

We have used Dispersal Orders in Manton, Celtic Point and Harworth with varying degrees of success.

Crack House Closure Powers have been used on a 2 occasions in recent years

A number of these orders have been breached on several occasions and the perpetrators arrested and received custodial sentences.

However, unless you are actually changing the behaviours and some of them are ingrained and linked to chaotic lifestyles, as I have indicated above we are just on a revolving door of enforcement.

There are a further 4 ASBO applications either with the legal team at the moment or in the process of going through the civil court system.

At least one further ASBI application is being compiled and nearing submission to legal

What resources do you have for enforcement activity?

3 officers

- X 1 full-time
- X 1 part-time (2.5 days per week)
- X 1 part-time (3 days per week)

How could your approach to enforcement be improved/developed?

Our approach to enforcement is what it is. If there is evidence and we have the powers we will enforce depending on seriousness, vulnerability of the victim and age of the perpetrator.

Most models for tackling problems of this nature usually recommend:

- Prevention
- Intervention
- Enforcement
- Rehabilitation

Therefore in terms of development there should be more work around the prevention, early intervention and rehabilitation agenda and ensuring that we have the correct links to partner agencies that can assist with this work.

However I will stress that if the perpetrator does not want to change, we have no power to force them and that is when enforcement is the choice of last resort but invariably a choice the perpetrator has made.

One other issue is also managing people's expectations, sometimes they have unrealistic expectations of what is achievable without their co-operation and also the part that their behaviour may or may not be playing in the scenario they are complaining about.

So mediation and restorative justice are also key drivers in this agenda. The former normally comes at a cost and requires the co-operation of both parties.

Do you plan to change your approach to enforcement in the next year? If so please specify

I do not think our approach to enforcement will change drastically in the coming year. However if the new ASB legislation is enacted then the tools and powers at our disposal will change. This presents a training issue in terms of the team, which in relation to the volume, complexity and nature of the work currently is demanding.

The proposed new powers are:

- Criminal Behaviour Order
- Crime Prevention Injunction
- Community Protection Notice
- Community Protection Order (public space)
- Directions Power
- Community Protection Order (closure)

REVIEW OF ENFORCEMENT ACTIVITY – Licensing

Describe your approach to enforcement (what do you do and why?)

The Council's licensing department employs two part-time (20 hours per week each) Licensing Enforcement Officers (LEOs). The LEOs enforce all licensing legislation for which the Council is responsible.

This includes licensed premises (pubs, clubs, off-licences and late night refreshment houses), taxis, caravan sites, street traders, roadside caterers, pet shops, animal boarding establishments, dog breeders and zoos.

The main reason for licensing enforcement is public safety (for example with taxis ensuring that both drivers and vehicles are safe to convey often vulnerable members of the public). Animal welfare is a reason for licensing zoos etc. In respect of licensed premises, LEOs ensure that premises promote the 4 licensing objectives (prevention of crime and disorder, protection of children from harm, public safety and prevention of public nuisance).

What are the key enforcement powers you have?

The majority of licensing legislation includes the power to prosecute in respect of unlicensed activities.

Where premises or people are licensed conditions will be attached to a licence and the Council are able to prosecute for breaches of conditions.

The Licensing Act 2003 contains a number of specific offences which may be prosecuted as does legislation relating to taxis and taxi drivers.

The Council has statutory powers to enter and inspect premises and to suspend driver licences and vehicle licences (on public safety grounds).

How successful has your approach to enforcement been? – provide details of your success

LEOs routinely inspect premises and carry out visits, but enforcement activity is often complaints driven. This routinely results in satisfactory outcomes for complainants.

Partnership working is key and joint visits are routinely carried out with Environmental Health or the Police.

The approach is usually to start enforcement informally and then escalate if necessary for persistent or repeat offenders.

Warnings are routinely used at an early stage of enforcement activity. Prosecutions are undertaken for appropriate cases. For example a taxi driver

from Rotherham was prosecuted for illegally plying for hire in Bassetlaw.
What resources do you have for enforcement activity?
Two enforcement officers – both working x 20 hours per week
How could your approach to enforcement be improved/developed?
Increase the number of routine and planned visits to improve enforcement visibility in the District. Improve co-ordination of visits to premises with other agencies to prevent duplication of work.
Do you plan to change your approach to enforcement in the next year? If so please specify
Yes, Licensing Enforcement Officers are developing a written programme of annual inspections and visits to ensure premises are visited on at least an agreed number of occasions each year.

REVIEW OF ENFORCEMENT ACTIVITY – Environmental Health Regulatory Team

Describe your approach to enforcement (what do you do and why?)

Environmental Health – Regulatory Team

The vast majority of work undertaken within this team is in relation to businesses and most of that would fall under the umbrella of enforcement as it based in legislative requirements. Broadly speaking we are the enforcement authority for: -

- Food Safety within all food businesses within the district,
- Health & Safety within most workplaces within the district,
- Pollution Control within those premises that require a permit from the Local Authority to operate.

We also have regulatory and enforcement responsibilities in relation to:

- Certain premises that require licenses e.g. tattooists, sun bed operators, animal boarding and caravan sites etc.
- Contaminated and potentially contaminated land sites
- Air quality monitoring and reporting

Additionally we would have a role in recommending conditions to planning and licensing colleagues and in providing export certificates to local food businesses and in operating the Food Hygiene Rating Scheme.

The responsibility to comply with the law lies with an individual or a business – the ‘duty holder’. However, the responsibility to comply is not always in itself enough to ensure that it happens. Effective and well-targeted regulation is essential to promote fairness to businesses and protection from harm to the wider public. The areas of regulation we enforce touch the lives of everyone who lives or works within the district.

As regulators we try to adopt a positive and proactive approach towards ensuring compliance by helping and encouraging all duty holders to understand and meet regulatory requirements more easily; and by investigating and responding proportionately to regulatory breaches.

The word ‘enforcement’ may mean different things to different people. Some might think of it only in the context of action that ends in a Court but in terms of the activities undertaken by the regulatory team it is a wide concept.

For example, in relation to food businesses, all of the following are actually enforcement related activities:

- Registration of and advisory visits to new premises
- Food hygiene interventions e.g. sampling food or checking products
- Routine unannounced Food Hygiene Inspections
- Formal warning letters following inspection to provide information to businesses on what needs to be done to meet required standards
- Follow up visits to check on compliance
- Service of improvement notices
- Acceptance of a Voluntary Closure undertaking
- Seizure of unsafe/unfit food
- Application for prohibitions of premises (formal closure)
- Prosecution
- Application for prohibition of a person from running a food business

In terms of numbers, over 650 inspections of new and existing food premises were carried out in the last 12 months. More than half of these will have had been followed up with warning letters and we have carried out over 250 revisits to check on compliance.

21 improvement notices have been served and we have accepted one voluntary closure. We have just taken our first food prosecution for many years, during which the food business operator pleaded guilty to 14 food safety offences.

We have also responded to about a hundred food related complaints, provided advice to about a hundred food related enquiries and taken over a hundred samples that have been analysed for microbiological safety. We were also notified of over 250 food borne, water borne and infectious diseases which we assess to determine where full investigation is required.

You will see that this is very much a hierarchical list in which the enforcement activity builds in severity. Also the higher numbers of actions are centered on the less severe and less formal activities. They are mostly, however, enforcement actions that are part of the food safety enforcement regime and are reported as enforcement actions to the Food Standards Agency. Underpinning the pure enforcement activities are those that are educational and carried out to improve standards in premises and with the public.

A variation of this list of activities could be produced for the areas of regulation we are involved in that were identified above. It is fair to say that the numbers of actions are not quite so high for all the enforcement areas.

All enforcement activity is underpinned by the Authority's overarching enforcement policy, and the more specific enforcement policies relating to specific regulatory functions. These were written to comply the enforcement concordat and the principles of better regulation.

What are the key enforcement powers you have?

Each piece of legislation that we enforce will usually contain some form of a power of entry if it is required as well as the powers that can be used by officers. These are delegated as appropriate to various members of the team. The range of legislation is listed below, but more helpfully, perhaps, is an extract from the Health and Safety at Work Act, Section 20 which will give an idea of some of the range of powers we might have to exercise.

20 Powers of inspectors

- (1) Subject to the provisions of section 19 and this section, an inspector may, for the purpose of carrying into effect any of the relevant statutory provisions within the field of responsibility of the enforcing authority which appointed him, exercise the powers set out in subsection (2) below. .*
- (2) The powers of an inspector referred to in the preceding subsection are the following, namely— .*
- (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned in subsection (1) above; .*
 - (b) to take with him a constable if he has reasonable cause to apprehend any serious obstruction in the execution of his duty; .*
 - (c) without prejudice to the preceding paragraph, on entering any premises by virtue of paragraph (a) above to take with him— .*
 - (i) any other person duly authorised by his (the inspector's) enforcing authority; and .*
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised; .*
 - (d) to make such examination and investigation as may in any circumstances be necessary for the purpose mentioned in subsection (1) above; .*
 - (e) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (d) above; .*
 - (f) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above; .*
 - (g) to take samples of any articles or substances found in any premises which he has power to enter, and of the atmosphere in or in the vicinity of any such premises; .*
 - (h) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purpose mentioned in subsection (1) above); .*
 - (i) in the case of any such article or substance as is mentioned in the preceding paragraph, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely— .*
 - (i) to examine it and do to it anything which he has power to do under that paragraph; .*
 - (ii) to ensure that it is not tampered with before his examination of it is completed; .*
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under any of the relevant statutory provisions or any proceedings relating to a notice under section 21 or 22; .*
 - (j) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (d) above to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers; .*

(k) to require the production of, inspect, and take copies of or of any entry in— .
(i) any books or documents which by virtue of any of the relevant statutory provisions are required to be kept; and .
(ii) any other books or documents which it is necessary for him to see for the purposes of any examination or investigation under paragraph (d) above; .
(l) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this section; .
(m) any other power which is necessary for the purpose mentioned in subsection (1) above.

- Public Health Act 1936 (including all associated regulations made under the Act)
- Prevention of Damage by Pests Act 1949
- Pet Animals Act 1951
- Caravan Sites Control of Development Act 1960
- Public Health Act 1961
- Animal Boarding Establishments Act 1963
- Riding Establishments Act 1964
- Breeding of Dogs Acts 1973 & 1991
- Control of Pollution Act 1974
- Health and Safety at Work Act 1974; and any Orders, or Regulations or other instruments (whether dated before or after the date of execution of any instrument of appointment):-
 - i. made thereunder, or
 - ii. relating thereto, and
 - iii. any modification or re-enactment of the foregoing
- Dangerous Wild Animals Act 1976
- Local Government Miscellaneous Provisions Acts 1976 & 1982
- Zoo Licencing Act 1981
- Public Health (Control of Diseases) Act 1984
- Food and Environmental Protection Act 1985
- Nottinghamshire County Council Act 1985
- Control of Pollution Amendment Act 1989
- Environmental Protection Act 1990 (including all associated regulations made under the Act)
- The Food Safety Act 1990; and any Orders, or Regulations or other instruments (whether dated before or after the date of execution of any instrument of appointment):-
 - iv. made thereunder, or
 - v. relating thereto, or
 - vi. having effect by virtue of the European Communities Act 1972 and relating to food safety or animal feedstuff; and
 - vii. any modification or re-enactment of the foregoing
- Water Industries Act 1991

- Clean Air Act 1993
- Sunday Trading Act 1994
- Environment Act 1995 (including all associated regulations made under the Act)
- Dogs (Fouling on Land Act) 1996
- Pollution, Prevention & Control Act 1999 (including all associated regulations made under the Act)
- Health Act 2006
- Private Water Supply Regulations 2009
- Environmental Damage (Prevention and Remediation) Regulations 2009

How successful has your approach to enforcement been? – provide details of your success

This depends on how you measure success....

The purpose of a regulatory regime is to ensure outcomes. Thus if the outcome of compliance is achieved by an inspection, intervention or a warning letter, and no further work is required, that is a success – but probably an invisible success. Most of our success falls into that category.

Where we have to continue to serve improvement notices or prohibition notices these have, in the main, achieved compliance. Over the past year 21 Food Safety Improvement Notes were served, 22 Health & Safety Improvement Notices and 18 Health and Safety Prohibition Notices.

The recent prosecutions for food safety (14 offences) and health and safety at work (4 offences) were successful. A guilty plea was entered and the ensuing publicity will be a helpful tool to warn others who refuse to engage with us or make any effort to meet basic standards.

It has to be recognised that there will be some people who will not respond to an informal approach and more formal enforcement will be required.

In the main the graduated and proportionate approach works well with most businesses and generally the officers appear to be held in high regard for the way they carry out their work.

There are difficult areas, particularly within the pollution control regime, where large businesses do not want to comply and enforcement has become necessary – but it is actually very difficult and risky to undertake. It is also where we, as an Authority, we are in uncharted territory and are having to work our own way through step by step. This is where we will be seen to be less successful by the public – although in reality progress is being made.

How could your approach to enforcement be improved/developed?

I don't think there is a particular problem with the approach to enforcement that has been discussed above.

The difficulties usually come when we enter into formal/legal action. As shown, successful outcomes are usually achieved early in the hierarchy of action and a prosecution is rare. This means that when it happens it will be an unfamiliar process for the officers involved. This probably equally applies to the in-house legal team, who may be faced by completely new areas of work. We are trying to make this easier for our Environmental Health staff by developing template paperwork and documentation and to some extent precedents to follow, and checklists. However the range of legislation is wide, as well as the range of actions under that legislation. It makes it very time consuming and there are pitfalls.

Training has been undertaken to improve skills in this area, but if they do not need to be used regularly, they will inevitably become rusty.

Under these circumstances, timely and knowledgeable legal advice is often required. The Authority needs to consider how it is going to be best placed to meet the needs of regulatory staff undertaking enforcement work in terms of legal services provision.

There have been improvements in working arrangements between Council departments recently, and through the Corporate Enforcement Group. Knowledge is being shared that is leading to improved outcomes and this should continue to develop and help all enforcement staff within the Authority.

What resources do you have for enforcement activity?

This is a regulatory service so if you take a broad definition then all the team spend most of their time on enforcement related work.

4.4 full-time equivalent (6 different members of staff) in Food and Health and Safety Team (also do some licensing work) – 90% of time spent on enforcement

2 full-time equivalent Pollution Control Officers – Senior officer spends 90% of her time on enforcement related work and the Contaminated Land Pollution Control Officer spends about 50% of his time on enforcement related activities

Do you plan to change your approach to enforcement in the next year? If so please specify

For the most part I would not expect to make any significant changes to our approach. The approach we take is generally specified within legislation, Approved Codes of Practice and enforcement policies.

The area where there is likely to be change is in Health & Safety at Work regulation. The current consultation is aimed at moving away from proactive, unannounced inspection towards interventions aimed at supporting businesses more. There are great concerns being expressed that it is a way of changing a proactive and preventative regime into one where the time and effort will be spent on investigating events in a reactive way after they have happened. Any changes that come into being as a result of the eventual new code of practice will have to be incorporated into our enforcement approach.

REVIEW OF ENFORCEMENT ACTIVITY – Environmental Health – Neighbourhood Team

Describe your approach to enforcement (what do you do and why?)

The majority of the work undertaken by the Environmental Health Neighbourhood Team is enforcement based. The Team take on work on the basis that there is an underlying legal obligation that can be enforced. Any “Education”, therefore, is usually aimed at helping an individual to comply with their legal obligations – so is rooted in enforcement.

The non-enforcement role is more limited but would include, for-example, the recommendation of conditions in response to a Planning Application. (142 during the last 12 months).

Enforcement has a hierarchy, ranging from simple advice, through to the service of a statutory notice which may lead to works in default and the recovery of costs, and/or prosecution.

The approach taken, however, very much depends on the particular circumstances.

By way of example:

Where a tenant complains of housing disrepair, the landlord will usually be advised of the repairs that they need to undertake and given a reasonable time to carry them out. If the work is not completed, then a statutory notice will be served. Failure to comply will result in works in default and the landlord being charged for the work. Prosecution is an option, but generally works in default are undertaken as this offers a more immediate beneficial outcome for the tenant. (Clearly, where the defect is particularly severe, immediate enforcement action would be taken, such as a prohibition or emergency remedial action). It could be said that this is an education first approach.

The response to certain environmental crime, for example fly-tipping or dog fouling, is different. Here the initial approach is to prosecute or issue a Fixed Penalty Notice if there is sufficient evidence. Even where the evidence is poor, possible offenders will be contacted and their alleged behaviour challenged. Any form of informal action (education) would be rare after the event. Although education may take place to warn residents not to commit the offence in the first place.

On occasions, Environmental Health serve notices requiring the repair of sewers/septic tanks. Here an informal request is unlikely to resolve the problem as more than one householder is involved – so formal notice will be served and works in default carried out. Failure to comply with the notice is, technically, a crime – but we would never prosecute in these circumstances.

Enforcement takes place in the following broad areas. Complaints/requests received during the last twelve months are given in brackets.

- Enforcement of housing standards (usually in the private rented sector) (198)
- Enforcement and licensing of housing conditions in houses in multiple occupation.(5)
- Harassment and illegal eviction.(28)
- Private drainage - mostly septic tanks now.(31)
- Pest control enforcement including insect/identification (18)
- Dog Fouling Enforcement (167)
- Accumulations/rubbish on land (150)
- Fly-tipping/littering enforcement (239)
- Securing empty properties/derelict sites (64)
- Filthy and verminous premises (56)
- Gas serving warrants for A1 Housing.(approx. 200)
- Graffiti (2)
- Licensing Act (Prevention of Public Nuisance) (240)
- Domestic and Commercial Noise Control. (503)
- Smoke/bonfires.(146)
- Domestic Smoke Control Areas. (40)
- Odour commercial/domestic. (39)
- Domestic and Commercial light nuisance. (7)
- Grit/dust/fumes (16)
- Public Health Burials.(5)
- “General Public Health Complaints” (110)

What are the key enforcement powers you have?

The key legislation enforced by the Environmental Health Neighbourhood Team is as follows:

- Public Health Act 1936 (including all associated regulations made under the Act)
- Prevention of Damage by Pests Act 1949
- Public Health Act 1961
- Control of Pollution Act 1974
- Local Government Miscellaneous Provisions Act 1976
- Refuse Disposal (Amenity) Act 1978
- Local Government Miscellaneous Provisions Act 1982
- Building Act 1984 (including all associated regulations made under the Act)
- Public Health (Control of Diseases) Act 1984
- Housing Act 1985 (including all associated regulations made under the Act)

- Nottinghamshire County Council Act 1985
- Control of Pollution Amendment Act 1989
- Environmental Protection Act 1990 (including all associated regulations made under the Act)
- Water Industries Act 1991 (including all associated regulations made under the Act)
- Clean Air Act 1993
- Sunday Trading Act 1994
- Dogs (Fouling on Land Act) 1996
- Noise Act 1996
- Housing Act 1996
- Licensing Act 2003
- Housing Act 2004
- Clean Neighbourhoods & Environment Act 2005

How successful has your approach to enforcement been? – provide details of your success

Enforcement success can be difficult to measure.

Paradoxically, in many areas of work a successful outcome is resolving a complaint/enquiry without the need to resort to formal notice or prosecution (An informal request backed up by the threat of possible formal action is sufficient to achieve the desired outcome). The majority of the complaints/enquiries detailed above will have been resolved at the informal stage without the need to resort to more formal enforcement action.

Enforcement against fly-tipping is easier to measure. For example, 35 fixed penalty notices have been issued for fly tipping and other waste regulation offences over the last year and there has been one successful prosecution. (Other prosecutions are being prepared)
3 fixed penalty notices have been issued for dog fouling.

The following statutory notices have also been served during the last twelve months:

Abatement Notice – Environmental Protection Act. – 15
Prevention of Damage by Pests Act – 10
Securing Buildings – 4
Filthy and Verminous premises – 4
Town and Country Planning Act – 1
Housing informal notice pending formal action – 72

How could your approach to enforcement be improved/developed?

The amount and variety of legislation to be enforced makes it difficult for an officer to be an expert in all areas. In larger authorities, with a larger number of staff, there is a greater capacity to allow staff to specialise and become experts in specific enforcement areas.(e.g. housing enforcement). Improved enforcement is very much about developing skills in our own staff, through gaining experience by doing training and learning from colleagues in other authorities.

Through the work of the Corporate Enforcement Group it is clear that joint working between different Council departments can lead to more effective and efficient enforcement. Developing this model will both improve and develop enforcement at both a departmental level and Council wide.

The approach to enforcement will not change significantly. The emphasis will, however, be re-aligned in order to bring it in line with new or current Council priorities. For example, members of the public report that both fly tipping and dog fouling are a major concern. This makes it a Council priority and extra effort will be put into fly-tipping and dog fouling enforcement.

From a fly tipping point of view, we have a reasonable success in serving fixed penalty notices. However, this gives only a limited opportunity to publicise our successes.

Prosecution is better as we have the opportunity to name and shame the culprits and gain maximum publicity - as a deterrent to others. Officers are now concentrating on building up investigation, interviewing and prosecution skills.

What resources do you have for enforcement activity?

3 full-time equivalent Environmental Health Officers – 95% enforcement

3 Technical Officers – 95% enforcement

1 Green, Cleaner, Safer Lead Officer – 95% enforcement – (this post has been re-designed and will take a lead on tackling environmental crime and will be known as the Environmental Enforcement Officer)

1 Dog Warden – 75% enforcement

Do you plan to change your approach to enforcement in the next year? If so please specify?

The approach to enforcement will not change significantly as per comments above. The re-design of the Green, Cleaner, Safer Lead Officer will allow a clear focus on enforcement.

REVIEW OF ENFORCEMENT ACTIVITY - Planning

Describe your approach to enforcement (what do you do and why?)

The Council receives, on average, well over 200 notifications of alleged breaches of planning control a year (there are currently 271 open cases). These complaints are logged and all must be investigated to establish whether or not a breach of planning control has occurred. Where no breach is established, the complainant is notified and the case is closed.

If a breach is established, it is the Council's usual practice to invite an application to regularise the situation. This allows for the consideration of the planning merits of the case and whether the imposition of any conditions may alleviate any harm which the breach is causing. The invitation of an application does not prejudice the acceptability or otherwise of the development.

In more serious cases, the Council may move directly to enforcement action (which can, ultimately, result in prosecution) rather than inviting an application. Conversely, in the case of extremely minor breaches of control, which have no obvious adverse impact on amenity, it may be determined to take no enforcement action rather than inviting an application.

It is important to recognise that Planning Enforcement is not a statutory function for the Council. There has, however, been longstanding support by Members for the (albeit limited) provision of this function. It should be seen as an integral part of an effective planning service, as breaches of planning control can have significant adverse effects on those concerned. Indeed, the National Planning Policy Framework (NPPF) states that '*Effective enforcement is important as a means of maintaining public confidence in the planning system*' (para 207).

In summary, the main principles of planning enforcement are that :

- The use of enforcement powers is discretionary not statutory;
- Carrying out development without planning permission is not an offence; it may be unauthorised but it is not illegal;
- Planning permission may be sought retrospectively.

What are the key enforcement powers you have?

Powers for the enforcement of planning control over the development and use of land are given by the Town and Country Planning Act 1990 as amended by Part I of the Planning and Compensation Act 1991. This legislation allows the Council to use any of the following powers where there has been a breach of planning control which should be rectified:

- (i) the power to serve a 'planning contravention notice' where the Authority requires information about activities on the land, or the nature of the recipient's interest in the land;
- (ii) the power to serve a 'breach of condition notice' to remedy the consequences of failure to comply with any condition or limitation imposed on a grant of planning permission;
- (iii) the power to serve an 'enforcement notice' to remedy any other unsatisfactory breach of planning control;
- (iv) the power to serve a Stop Notice to require immediate cessation of an activity specified in an enforcement notice and a Temporary Stop Notice when there has been a breach of planning control and the Council think that it is essential that the activity is stopped immediately (a Temporary Stop Notice ceases to have effect after 28 days);
- (v) the ability to seek an injunction in the High Court, or County Court, to restrain any actual or reasonably anticipated breach of planning control.

The Council makes use of all of these powers in the exercise of its Planning Enforcement function.

How successful has your approach to enforcement been? – provide details of your success

Members and the public are often unaware of the positive impact that Planning Enforcement Officers have, as around two thirds of most alleged breaches are found not to be such and others are addressed successfully by Officers without the need to commence formal enforcement proceedings. This is reflected in some statistics, correct as of October 2012, which are set out below:

Number of complaints received:

- 2008 – 196
- 2009 – 243
- 2010 – 257
- 2011 – 262
- 2012 – 225

Number of Enforcement Notices served:

- 2008 – 10
- 2009 – 20
- 2010 – 28
- 2011 – 20
- 2012 – 25

(n.b. eight Notices have been served in 2013 to date)

Number of Enforcement Notice appeals and outcome:

- 2008 – 3 (1 x withdrawn, 1 x dismissed, 1 x split decision)
- 2009 – 5 (1 x withdrawn, 1 x dismissed, 1 x allowed with conditions, 2 x allowed)
- 2010 – 8 (6 x dismissed, 1 x allowed, 1 x quashed)
- 2011 – 11 (9 x dismissed, 1 x withdrawn, 1 awaiting decision)
- 2012 – 1 (awaiting decision)

Where there is a failure to comply with a Notice, the Council initiates prosecution proceedings. To date, it has successfully achieved prosecutions for every case taken to Court. In 2013, three successful prosecutions have already been achieved, with four more in progress.

How could your approach to enforcement be improved/developed?

Improvements to the Service have been recently implemented. These include the publication of an Enforcement Protocol (available on the Planning Enforcement pages of the Council's website); setting out targets for investigating alleged breaches of planning control; the registering of, and commencement of investigations into, a significant historic backlog of cases (thanks to long hours by Officers); and the introduction of new administrative processes to allow Enforcement Officers to focus on investigation.

With regard to matters within the Council's gift, it is not felt that, with the exception of the provision of additional officers (which is unlikely given the financial constraints upon the Council), further improvements can be made at the present time. Consideration may be given to buying in temporary or part-time officer support from neighbouring authorities should the need arise.

Beyond this, a significant improvement would be the issuing of greater fines by the Magistrates Court following successful prosecution. At present, there is a concern that, while prosecutions are successful, the penalties imposed by the Court are insufficient to deter persistent

breaches of planning control. Mechanisms for providing more detailed planning enforcement training to Magistrates, by the Council, are currently being considered.

Do you plan to change your approach to enforcement in the next year? If so please specify

No.

OVERVIEW & SCRUTINY COMMITTEE

Minutes of the Select Panel Review

Enforcement Activity in the District

Tuesday, 19th March 2013, Worksop Town Hall

Present: Councillor J C Shephard (Chairman)
Councillors R Carrington-Wilde, D Challinor, M Gregory, J W Ogle,
G A N Oxby, D G Pidwell, T Rafferty, J B Rickells, J M Sanger, T Taylor and
J White.

Officers: G Blenkinsop, L Dore, M Ladyman, N Taylor and R Theakstone.

Officers: G Connor, E Prime, J Proudman, R Schofield and S Wormald.

Also in Attendance: Councillor B Barker

The Corporate Development and Policy Manager advised that a range of questions had been prepared to obtain information on the Council's Approach to Enforcement and to consider whether sufficient resources were available to ensure the Council could fulfil its statutory responsibilities and take proportionate enforcement action.

On completion of the review, a report will be prepared and presented to the Overview and Scrutiny Committee.

Questions by Members of the Overview and Scrutiny Committee

General Questions to all BDC enforcement leads

From Councillor Shephard

Question 1

“CAN YOU EXPLAIN HOW YOUR APPROACH TO ENFORCEMENT FOLLOWS THE ENFORCEMENT CONCORDAT’S PRINCIPLES OF GOOD ENFORCEMENT?”

From Stephen Wormald:

From a licensing point of view we encourage the enforcement officer to get involved with applicants from the start of the process regarding the badge/knowledge test, convictions and CRB matters from day one to make them aware of what is involved. With reference to convictions, the enforcement officer will interview and set out in writing the findings of the interview to enable the decision making process.

With premises licences, the enforcement officer is involved in the discussion of the conditions in a face-to-face meeting with the applicant.

We work to educate the applicant, setting standards, saying what is expected and providing as much help as possible.

In the event of any complaints about the service received, we would refer people to the Council's complaints procedure.

With reference to proportionality, with licensing matters we start small and escalate where appropriate but we try to resolve internally with prosecution as a last resort.

From Richard Schofield:

With reference to planning enforcement matters, there are formal protocols and information on the planning pages of the Council's website which provides advice on our approach, the timescales for dealing with complaints of alleged planning breaches and how we aim to resolve matters.

We have a general approach to all applicants on planning matters in that we help everyone and do as much as we can to provide information for applications and permissions needed.

Any complaints are channelled through the Council's Complaints Officer.

Proportionality: the key issue in planning enforcement can be the volume of cases reported. We take a pragmatic approach in that we only take action where expedient and only prosecute in severe cases. We do try and negotiate regarding any breaches of permissions and endeavour to be consistent, however, each case has to be treated on its own merits.

From Gerald Connor:

With reference to Community Safety we find that people complain about specific behaviour that they witness and it becomes an investigation from this point.

We involve the perpetrator.

We are hopefully helpful regarding advice and guidance but this depends on the evidence.

There can be complaints if people are not happy with the outcome.

Proportionate: Cases are risk assessed. We provide a consistent approach. We look at the evidence for each case and determine the most relevant and appropriate course of action.

From Liz Prime:

With Environmental Health most matters are covered by statute, i.e. laws are laid down. We cover regulatory work with businesses and try to point them in the right direction; we try and educate before taking enforcement action.

We have a clear complaints procedure through both Environmental Health and the Council. There is good guidance by the Food Standards Agency on who to call if unhappy.

Proportionality: this is largely covered by Codes of Practice, BDC policy and enforcement policy but it is not just the Enforcement Concordat that drives it. The Regulators Compliance Code advises giving businesses support, advice and guidance. With prosecutions, we seek advice from the Crown Prosecutors.

In Nottinghamshire we look for consistency on food and health and safety matters when scoring businesses so that they are scored the same way in this area as in other areas.

From Julian Proudman:

We have set standards to deal with environmental crime. A report to Cabinet recently advised on our openness and provision of clear information in our work with the public, e.g. landlords, householders.

Any complaints are dealt with through the Council's Complaints Procedure. We try and resolve matters through an informal approach but if anyone still has a problem, they can make use of the formal complaints process.

Proportionality: consistency can be a problem. Suggestions by Eric Pickles that the public should be fined on the spot for certain actions, e.g. "posting notices about lost cats are over the top". The circumstances of each case should be considered and enforcement action should reflect those considerations.

Councillor Taylor
Question 2

"DO YOU BENCHMARK YOUR APPROACH TO ENFORCEMENT AGAINST OTHER SIMILAR AUTHORITIES?"

From Stephen Wormald:

We do not formally benchmark. We are members of the Nottinghamshire Licensing Officers' Group and the Nottinghamshire Association of Authorities Licensing Group which have similar policies and a similar statement within licensing policies regarding convictions in licence applications.

The Licensing Act considers alcohol and entertainment and we are currently developing a local authority response. The Police and Nottinghamshire Trading Standards have an enforcement agreement regarding who would prosecute.

Benchmarking with other authorities for licensing would not always work due to local issues.

From Richard Schofield:

Benchmarking is difficult to do with planning enforcement. I sit on the East Midlands and Nottinghamshire Groups which consider enforcement and planning issues generally. We share experiences and advice. Different authorities have different levels of resources as it is not a statutory function and therefore the approach and strategy can be different.

From Gerald Connor:

We monitor ASB against other performance information e.g. Police data, data from the Troubled Families Team, Probation, Multi-Agency Risk Assessment Conferences etc. We don't benchmark.

From Liz Prime:

We work within the Nottinghamshire Group for Environmental Health, Health and Safety and Food Safety. Figures on enforcement actions are formally benchmarked and published, e.g. with regards to health and safety, the reasons for serving notices, how effective we have been at solving the problem.

From Julian Proudman:

In Environmental Health we hold working groups, e.g. health and safety, housing. It is more about consistency and sharing experiences of how laws should be interpreted. It is not easy to compare to somewhere else as it depends on the circumstances and what the priorities are.

Councillor Sanger
Question 3

“DO YOU THINK THAT THE INFORMATION WE PROVIDE TO THE PUBLIC AND KEY STAKEHOLDERS ABOUT THE COUNCIL’S APPROACH TO ENFORCEMENT IS CLEAR AND ACCESSIBLE?”

From Stephen Wormald:

For licensing - yes. We provide clear information about enforcement to the public and stakeholders. For stakeholders we have the Licensing Officers Group with representatives from Trading Standards, Fire, Police and the Gambling Commission. For the public we make it clear who to complain to on licensing issues. Information is available on the website.

From Richard Schofield:

Our approach is clear although it has not been in the past. In the last 12 months all the relevant information has been made available on the website. All relevant parties are aware of the approach.

From Gerald Connor:

Stakeholders are aware of our approach to enforcement and the public likewise but we have to manage expectations: The public don't always give much but they expect a lot. Despite clarity, we don't always get the outcome you or they might want. Time will tell if it will improve.

From Liz Prime:

Our approach is clear and accessible. The Environmental Health pages of the website link to the Bassetlaw District Council and Environmental Health Enforcement Policy. The approach to managing expectations is difficult. Sanctions can include jail sentences.

From Julian Proudman:

There is a public perception of environmental crime – we are taking steps to ensure people are aware. People thought that we would not do anything but things are now changing to a realisation that we will do something.

Councillor White
Question 4

“THE COUNCIL HAS A NUMBER OF STRANDS TO ITS ENFORCEMENT APPROACH:- PREVENTION, EDUCATION, INFORMAL ACTION, LEGAL ENFORCEMENT ACTION. WHAT PERCENTAGE OF TIME IS SPENT ON THESE DIFFERENT ELEMENTS OF ENFORCEMENT AND DO YOU THINK THIS REPRESENTS THE RIGHT BALANCE OF ACTIVITY?”

From Stephen Wormald:

This is difficult to be specific about. Legal enforcement action is a last resort – perhaps 5% of activity of 50% enforcement time. Prevention and education would be the remainder and ideally the bulk of this should be focussed towards stopping the need for escalation of action.

From Richard Schofield:

I would echo what Stephen has said with 10-15% of legal enforcement action as a last resort. Prevention and education is difficult within the complexities of the planning process. We spend a lot of time providing advice and reinforcing the need to comply with conditions. 70%-80% of informal action requires formal process and we do not always have the officer time.

With legal enforcement action of the 10-15%, these are where there has been a series of breaches or ignored enforcement action. A balance - probably yes, but we could do more if funded.

From Gerald Connor:

Legal enforcement is the top of the pyramid at 10-15%. Informal dialogue/informal resolution - 35%. Prevention and education - 50%.

It is difficult with prevention, education and rehabilitation as part of the agenda when many will not have offended yet. We engage with the schools and youth service on a range of activities where we can support young people at risk, e.g. Sporting Chance. We also link in with training providers on things like alcohol and substance mis-use.

We have been doing less education in recent years and we will have to review the approach in the longer term?

With legal enforcement, if there are subsequent breaches, it involves a massive time-consuming process on available resources and can be a revolving door if there is no on-going support. We need back-up to sustain on-going enforcement. An Order does not change behaviour.

From Liz Prime:

Prevention and education - 10-15% - we are squeezed because of resources. Informal action and legal enforcement action can morph one into the other. The Act requires us to carry out an inspection – a formal action, but it might not end up in formal action. We send a letter if there is a breach and if the matter is not rectified this can start formal Court action. Preparation to go to Court can take 5-10% of officer time, it depends on what has happened.

From Julian Proudman:

Time spent on prevention and education is minimal. Ninety per cent of our time is spent on informal action with 10% on legal enforcement action. We don't try and educate regarding a barking dog but this can be backed up by formal legal action if informal action does not resolve the problem.

Councillor Oxby

Question 5

“DO YOU HAVE THE RIGHT RESOURCES TO TAKE THE ENFORCEMENT ACTION REQUIRED OF THE COUNCIL?”

From Stephen Wormald:

We are interviewing for a second Enforcement Officer so that we have two in post each working 20 hours per week. This provides flexibility and provides a balance for night-time working.

From Richard Schofield:

This is a discretionary function. We have a Planning Enforcement Officer and an assistant who get through the work but always have a case load in the background.

From Gerald Connor:

We have two ASB posts as part of a joint ASB team with A1 Housing (A1 also have two ASB officers and a Manager). It is early days with joint team working. We have explored the possibility of an ASB assistant for serving of papers but are managing to keep our heads above the water with the current joint approach.

From Liz Prime:

We need a lot of resources to investigate and sometimes have to re-prioritise lower priority work. Staffing is adequate for basics, but the pollution team and health and safety team are not over resourced and we are teetering on the edge at times. We have to respond immediately to incidents therefore day to day work that we have a statutory duty to do stops.

From Julian Proudman:

Realistically our work is not finite. More staff would do more. Compared to teams in other authorities, we are similar.

(Comment from Councillor Oxby: "The response from the Environmental Health and ASB teams has always been first class.")

Councillor Carrington-Wilde
Question 6

"DO YOU MEASURE CUSTOMER SATISFACTION WITH YOUR ENFORCEMENT SERVICE? IF SO, HOW ARE YOU PERFORMING?"

From Stephen Wormald:

In Licensing - no. We used to have performance indicators regarding this. Forms were taken to premises visited by enforcement officers but were not responded to/returned. Where there are complaints we spend time with the complainant and take a statement. We have to be realistic about what an investigation would mean and we do feedback information to provide a service from beginning to end.

From Richard Schofield:

In Planning - no, but it is an interesting question! The difficulty can be the particular customer complaint and the time spent on education versus enforcement. A planning enforcement issue can take a long time to resolve - sometimes years. The end result can be a breach of planning control. It is often difficult to prove to the complainant that although a complaint can be investigated, given the protocols and action needed to be taken, would any value be achieved? Food for thought!

From Gerald Connor:

We measure across the service and not just enforcement. As part of the joint ASB work with A1 Housing we have adopted a questionnaire based on House Mark standards. We have been doing this for a couple of months. The questionnaire is completed via a telephone interview with clients. Sometimes though within 24 hours of a case being closed, other incidents of ASB have occurred.

It can be difficult to resolve what the customer expects to happen: have we done enough/will they accept the outcome? Can we re-open the case? Is there any fresh evidence? They sometimes find the answer difficult to hear and accept.

From Liz Prime:

Environmental Health has national performance indicators for regulatory services. We are positive regarding responses: figures have dropped nationally. Across the range of teams we generally get good responses and where there is a negative response it is because we have had to do something that the customer did not want us to do. Usefulness? It is difficult to set questions. We do not get a huge response therefore how meaningful are the results? There is also a query whether it is time well spent.

From Julian Proudman:

Nothing to add.

Councillor Challinor
Question 7

“IF ENFORCEMENT IS SEEN AS REQUIRING SPECIALIST EXPERTISE, HOW COULD THE COUNCIL ENSURE IT IS EQUIPPED TO DELIVER THIS FUNCTION IN THE SERVICE DEPARTMENTS AND WITHIN LEGAL?”

From Stephen Wormald:

Recruitment in licensing is designed to recruit the relevant experience in investigating and dealing with witnesses in prosecutions. The last three enforcement staff have all been ex-Police officers. The person specification is geared towards the candidate having the relevant experience.

We are realistic about resources and the work we do for other departments. We deal with what we can in-house, e.g. prosecutions for Planning, or if a case is too large to devote time to we will source expertise externally, e.g. for the ASBOs/Injunction work and in some cases for the Environmental Health team. The Legal department has been reviewed recently and we are moving forward with the recommendation that the implemented service is capable of resourcing work although we may still need to outsource large jobs.

From Richard Schofield:

We have not recruited to this post recently as the current post-holder has been in place for some time. The person specification ensures we employ suitably qualified staff. It is a tough job and a difficult job which requires specialist expertise and a special strength of character and we have to secure the best available person.

We invest in training both formal and informal. We have no concerns regarding the officer currently in post.

From Gerald Connor:

We have not recruited to an enforcement post in the last 18 months. We are driven by market forces and are happy with the level of expertise of staff available. External training is provided. We are currently looking at new ASB legislation and discussing joint training with A1 Housing. Nottingham City Council have been tasked with developing a training package for all Nottinghamshire which will include aspects of the new legislation and how it should be implemented.

From Liz Prime:

We are content with the officers we have; they are not specific enforcement officers, it is something we all do. We have two teams and within them we have a broad range of knowledge so we are not too narrowly focussed on one specialism. The exception is the Pollution Officer as this is a specialist field.

We do get support from Legal and it can be a difficult balance as there is not a 'drip' of cases; there might be nothing then three come in all at once. We need flexibility of service and advice from within the Council or externally – whichever is appropriate.

From Julian Proudman:

We need qualified staff and it is easy to appoint people with the appropriate level of qualifications. We can provide additional training for specific areas. In addition staff have the confidence and support to learn themselves while carrying out their duties. Success breeds success and it motivates staff to do more.

Councillor Pidwell

Question 8

“CAN YOU EXPLAIN HOW THE COUNCIL’S CORPORATE ENFORCEMENT GROUP IS HELPING TO IMPROVE THE COUNCIL’S APPROACH TO ENFORCEMENT (ARE ALL THE KEY ENFORCEMENT OFFICERS PART OF THIS GROUP)?”

From Richard Schofield:

I am not part of this group but the Enforcement Officer is. It is a positive forum for discussion on bigger issues in the District regarding who is dealing with which problem. Mark Ladyman is the Chair.

From Liz Prime:

Sharing knowledge is useful and avoids duplication. It is useful and we have done some good work by focussing on a specific area, e.g. empty properties. There is perhaps scope to broaden and widen the membership?

From Julian Proudman:

Bringing different disciplines together and expanding would be useful. It is narrow at the minute and could perhaps include Debt Recovery? This might include recovering money from those who have not done the enforcement work required.

From Gerald Connor:

We are not currently part of this group but would be available to join on a regular or ad-hoc basis.

From Mark Ladyman

The group was developed in conjunction with an Overview and Scrutiny Committee Select Panel review and we were mindful that there was a lot of good work going on but that it was not joined up. There is a lot of overlap work between certain enforcement actions and while it might have been too broad initially it might now be too narrow. We can expand and include others such as Debt Recovery.

Councillor Ogle

Question 9

“DO YOU THINK THAT THE COUNCIL HAS ADEQUATELY PUBLICISED SUCCESSFUL PROSECUTIONS TO DETER FUTURE BREACHES OF LEGISLATION? IF NOT, WHAT ARE YOUR PLANS TO IMPROVE THIS?”

From Stephen Wormald:

Yes. We adequately publicise - I cannot think of any that we haven't.

From Richard Schofield:

There have been press releases about recent prosecutions.

From Gerald Connor:

PR is always done on prosecution action. But do we publicise to deter future breaches? To stop future breaches involves a lifestyle choice by the people involved. What we do hope is that by publicising enforcement action the public would act as our eyes and ears and we would be notified about breaches of ASBOs or Injunctions e.g. where someone is prohibited to go into a specific geographic area. Equally through publicity we hope that the public would be re-assured that anti-social behaviour is not tolerated.

From Liz Prime:

There has been good reporting recently by PR and the Press and we are happy about this. There is more scope for using social networking advising low-level enforcement actions to keep general awareness levels up.

From Julian Proudman:

We do publicise although there was not so much in the past. We should be doing more including smaller things like £50 fines if we can get news coverage. Fly-tipping is rare but a drip-feed of news to the local newspapers with a push to print smaller stories would be helpful? They might not necessarily be considered newsworthy but would help to get the message across.

Councillor Challinor
Question 10

“IS ENFORCEMENT A NET COST TO THE AUTHORITY OR NET INCOME GENERATOR? DO YOU HAVE THESE FIGURES?”

From Stephen Wormald:

I do not have the figures to be able to quantify. I can look at with the accountants and provide a written answer.

(Agreed by the Chair and confirmed that figures will be provided).

The Council's Principal Solicitor has supplied the following information after the meeting -

I have reviewed the external charges to the legal costs code for 2012/13 and have extracted the cases where we have used external legal advisors for enforcement cases.

I can't give this as a percentage of the total legal cost of enforcement, as we don't break down legal work into a generic category of 'enforcement'. However, I can provide the following breakdown: -

In 2012/13 we used external Solicitors for the following cases:

Three Environmental Health cases; a case dealing with issues relating to an Environmental Permit, a prosecution of a restaurant for a large number of food safety breaches and a health and safety at work/Coroner's case relating to a workplace fatality. Total cost in 2012/13 was £19,539.92. In respect of the prosecution an order to pay some of those costs was made by the Court against the other party.

A number of ASB cases (ASBOs and Injunctions) including the obtaining the ASBO/ Injunction and subsequent enforcement of any breaches of those Orders. Total cost in 2012/13 was £23,877.65. In such cases, where orders were made by the Court, an Order to pay those costs was made by the Court against the other party. These cases will be referred to our Debt Recovery Team to try and recover these costs incurred by this action.

We used Counsel for the following cases: -

An appeal to the Magistrates' Court against a planning notice in respect of waste land. Total cost £5470.00. This sum was recovered in full from the other party as the Court made a costs order, which the other party has paid.

A hearing of an injunction application in respect of anti-social behaviour. Total cost £300. An order to pay those costs was made by the Court against the other party.

External Solicitors/Counsel were used for those cases either because specialist advice or representation was required or because resource issues at the time meant that as some cases were relatively large scale they could not be properly resourced in-house.

The Legal section does now have additional resources and more enforcement work is now dealt with in-house, such as recent planning and environmental health prosecutions. However, external Solicitors (and Counsel) will still be used for appropriate cases where specialist advice or representation is required.

From Richard Schofield:

There are too many variables in the equation. Planning Fees might be for a retrospective application for a breach of planning control. £120k for the last three years does not cover the cost of officers, legal fees, Court costs etc.

It is not possible to give a definitive response. The key point is does BDC think investment in enforcement is worthwhile? It is a long and resource intensive process and unlikely that it would ever be covered by costs.

From Mark Ladyman

We can't detach our statutory response; it is not a transactional response to stop a dog barking but a public issue of noise. Eric Pickles sees enforcement matters as cash cows - Planning, Licensing, Environmental Health. We are obliged by statute to deal with these issues.

From Gerald Connor:

We are always in the 'red'; an ASBO going through Court costs approximately £2,500. A Court may award costs but at the lower end of the scale so we will always be in the 'red'.

It is unquantifiable how we put a value on cost of community respite. Law enforcement comes at a cost which has to be met and is not always redeemable.

From Julian Proudman:

Fixed Penalty Notices are paid to BDC but this is not a way to self-fund. Islington employed two staff at £13k and raised £2k in fines.

Supplementary Questions

Councillor Ogle

"Issuing information on fly-tipping to the Press following recent coverage. How has it improved and what has improved?"

From Julian Proudman

It seems to have improved. The photos from the Ranby Prison incident came from Ranby Prison CCTV and it sent out the message that people should think more about what they are doing. Maybe working better with the Press including suitable photos is something we want to build on but does the Guardian want to publish good news stories?

Councillor Shephard

"With an increase in prosecutions for fly-tipping, do you have any information on how BDC prosecution figures compare for fly-tipping and dog-fouling with similar sized authorities?"

From Julian Proudman

It can be difficult to compare. Some authorities have dedicated teams dealing with fly-tipping - Barnsley did specialist training. Realistically we have not done many as it is not easy to put a case together; it can take a minimum of 50 hours work.

Councillor Shephard

“Is it possible to get hold of figures to compare BDC with Newark and Sherwood for fly tipping, litter and dog fouling enforcement?”

From Julian Proudman

I will get hold of what I can.

Councillor Ogle

“How often do we consult external solicitors for specialist work? How often do officers have to consult with Legal?”

From Stephen Wormald

I will have to provide a written answer for you to include how often we have consulted barristers for cases and how often we have consulted externally. **See answer to question 10.**

From Richard Schofield

When we need legal advice our in-house department is the first port of call.

From Gerald Connor

We run information past Stephen Wormald and then dependent on capacity, work is placed either in-house or externally.

From Liz Prime

The internal Legal team are our first port of call but we would not have to consult on most cases. We may need to go out for external help after discussion, e.g. in a pollution case we may need specialist advice from an external company.

From Julian Proudman

We consult with the internal team on a regular basis and have a good relationship with them.

QUESTIONS FOR PLANNING

Councillor Gregory

Question 11

“YOU RECEIVE A HIGH NUMBER OF ALLEGED BREACHES OF PLANNING CONSENT RESULTING IN A SMALL NUMBER OF ENFORCEMENT NOTICES. IF GENERALLY, REPORTS OF BREACHES ARE INVESTIGATED, THIS MUST TAKE UP A LOT OF OFFICER TIME. HOW DO YOU THINK THESE REPORTS COULD BE REDUCED – FREEING UP OFFICER TIME FOR MORE PRODUCTIVE ACTIVITY?”

From Richard Schofield:

We refuse to accept anonymous complaints and this cuts numbers considerably. People are required to write in as well. I am not sure that numbers could be reduced. Planning is emotive and legally complex and we can't educate everyone. If someone sees something they don't like they will send in a complaint. I don't know what more we could do to cut down

the numbers. We are at the point where we need to consider are things worth looking at as they are resource intensive?

Councillor Rickells

Question 12

“WHAT PERCENTAGE OF PLANNING APPLICATIONS ARE APPROVED RETROSPECTIVELY?”

From Richard Schofield:

I can't answer on this one - I should have asked for clarity. What percentage of overall planning applications are retrospective? I will have to find out and circulate the information.

Information supplied after the meeting: -

During the period 1st April 2012 to 31st March 2013 the Council granted 558 planning applications. Of these 94 were granted as retrospective applications. This equates to 16.85% of the total applications granted.

QUESTIONS FOR ENVIRONMENTAL HEALTH - REGULATORY TEAM

Councillor Rafferty

Question 13

“CAN YOU EXPLAIN TO MEMBERS HOW YOU PRIORITISE YOUR WORKLOAD TO MAKE SURE THAT HIGH RISK PREMISES RECEIVE A MORE INTENSIVE INSPECTION REGIME THAN LOWER RISK PREMISES?”

From Liz Prime:

Every area of work covered has an inspection regime with an element of risk assessment. We use a scoring system and a given assessment of premises determines when we have a look at it and when to go back.

Food Safety for example: for those with the highest risk we visit every six months, the next every 12 months, the bulk every 18 months. Some we visit every two years and for others which are a lower risk, e.g. sweet shops, we visit every 3 years.

Councillor Shephard

Question 14

“IS MORE ACTION TAKEN ON FOOD SAFETY THAN ANY OTHER AREA WITHIN YOUR CONTROL? IF THIS IS THE CASE, DOES THIS EXPOSE THE COUNCIL OR THE PUBLIC TO AN UNACCEPTABLE LEVEL OF RISK?”

From Liz Prime:

The team is split into two: pollution/contaminated land etc. and food/health and safety. More time is spent on food and we have a programme of work to cover this. This is how it is resourced which means this is what we are staffed to do and it does not take the lead at the expense of something else. As within all enforcements, the focus is put on food we eat.

Councillor Taylor
Question 15

“YOU HAVE GIVEN INFORMATION ON ENFORCEMENT ACTION TAKEN OVER THE LAST YEAR. HOW MANY PREMISES DID THIS ENFORCEMENT RELATE TO?”

From Liz Prime:

We have visited 750 premises and issued 400 formal warning letters and have made 300 re-visits to check they are compliant.

We have issued seven Health & Safety Prohibition Notices, seven Food Safety Notices, six Health & Safety Notices and one Food and Health & Safety Notice. There has been one voluntary closure.

Councillor Rickells
Question 16

“IF THE CHANGES PROPOSED TO HEALTH AND SAFETY REGULATIONS ARE IMPLEMENTED, DO YOU SEE THIS IMPACTING ON HOW YOU DEPLOY RESOURCES?”

From Liz Prime:

Probably not. A third of our time is focussed on health and safety matters. The changes alluded to guide officers away from unannounced pro-active inspections in the District. Is health and safety holding business back? Smoke and mirrors; we are being targeted to make visits to warehousing, e.g. to prevent falls from a height, but not unannounced/unexpected visits. We will end up investigating mortality. It will put more pressure on staff. Knowing that we come unannounced is part of the solution. We will become a reactive service.

Officers were thanked for their attendance. There was insufficient time for further specific questions for Environmental Health - Neighbourhood Team, Licensing and Anti-social Behaviour therefore it was agreed that responses to these questions would be provided in writing by the relevant officer.

QUESTIONS FOR ENVIRONMENTAL HEALTH – NEIGHBOURHOOD TEAM

Question 17

HAVE YOU MADE LINKS WITH OTHER AUTHORITIES WHO HAVE SPECIALIST ENFORCEMENT TEAMS – TO INCREASE THE SKILLS OF OUR OWN STAFF?

Yes - we have formed a link with Barnsley MBC, who trained us in the service of fixed penalty notices. Officers have used their expertise to assist with fly-tipping prosecutions.

Officers from Newark and Sherwood District Council have shared their best practice in private Sector Housing Enforcement.

A visit to Ashfield District Council helped in our enforcement and approach to empty domestic properties.

Links and a visit from an Enforcement Officer from Allerdale District Council educated us in the use of Section 79 Building Act Notices for derelict buildings.

Question 18

YOU MENTIONED THAT YOU ARE RE-FOCUSSING YOUR APPROACH TO ENFORCEMENT – TO CONCENTRATE ON FLYTIPPING AND DOG FOULING AND NOW HAVE THE BENEFIT OF A DEDICATED POST. WHAT WILL THIS MEAN IN PRACTICE? DO YOU RUN THE RISK OF IGNORING OTHER IMPORTANT ASPECTS OF YOUR ENFORCEMENT ROLE?

An existing post will be deleted and replaced by a post with more of an emphasis on enforcement of environmental crime - but also to include more of a coordinating role for other staff. All staff will still have the responsibility for environmental crime enforcement, but it is hoped that their work will be more effectively co-ordinated by a series of campaigns and through a best practice approach.

Yes - there is a risk that other enforcement activities, e.g. pest control, housing or noise will be put under additional pressure for time and resources if we concentrate more on environmental crime. The Manger and team will, however, be expected to effectively balance all their workloads.

QUESTIONS FOR LICENSING

Question 19

YOU HAVE EXPLAINED THAT YOU INTEND TO IMPROVE THE APPROACH TO LICENSING ENFORCEMENT THROUGH A PROGRAMME OF ANNUAL INSPECTIONS. HOW WILL YOU PRIORITISE THIS INSPECTION PROGRAMME?

The Licensing Department is in the process of developing a planned programme of monitoring visits and inspections, which will include risk assessments to target high risk areas/premises. The programme will include compliance checks on vehicles. The two recently appointed Licensing Enforcement Officers have been tasked with preparing and documenting the programme by October 2013. They are undertaking a series of visits (including night-time visits) to premises to establish an ideal frequency for both visits to premises and vehicle checks. They will liaise with other departments, who also inspect any of the premises in question, to ensure that programmed visits are co-ordinated. Once established, the inspection programme will be prioritised each year to ensure premises receive an appropriate amount of inspections depending upon their risk.

Question 20

WHAT PROPORTION OF LICENSING ENFORCEMENT TIME IS SPENT ON THE VARIOUS PARTS OF YOUR ROLE (PREMISES, CARAVAN SITES, STREET TRADERS, ROADSIDE CATERERS, ETC.)

It is difficult to give precise figures, as levels of complaints will vary. However, taxis and alcohol licensed premises will account for the majority of enforcement work (and particularly night-time enforcement work) - in the region of 60-80%. Caravan Sites, street traders, roadside caterers, dog breeding establishments, animal boarding establishments, gambling premises etc. will account for the remainder (20-40%).

Question 21

THE PUBLIC OFTEN DO NOT UNDERSTAND THE RESTRICTIONS OF LICENSING LEGISLATION IN RESPECT OF PREMISES. HOW DO YOU COMMUNICATE WITH THE PUBLIC OVER THESE ISSUES (i.e. prevention of crime and disorder, protection of children from harm, public safety and prevention of public nuisance)

The licensing objectives are set out on the Council's webpage. However, the main means of communication is the Council's Statement of Licensing Policy. The Policy is published on the Council's website and contains information about the licensing objectives, how people can

make representations on licensing applications and what type of issues those representations should address. As well as being published on the website, the policy is currently reviewed every three years (including a period of public consultation).

Both applicants and those wishing to make representations can and do contact the Licensing Department (and the Police) to discuss the licensing objectives. Applicants must state in their application how they will promote the licensing objectives. Those making a representation must show the likely effect of granting the application upon one or more of the licensing objectives.

QUESTIONS FOR ANTI-SOCIAL BEHAVIOUR

Question 22

PEOPLE HAVE VERY DIFFERENT TOLERANCE LEVELS TO ANTI-SOCIAL BEHAVIOUR. HOW DO YOU MAKE SURE YOU TACKLE THE MOST SERIOUS CASES AND PROTECT THE MOST VULNERABLE?

We carry out a risk assessment process with every victim to identify and protect the most vulnerable. This process is currently being standardised across Nottinghamshire. We have been working with other district councils and Nottingham City Council on a risk assessment matrix.

Question 23

HOW CAN YOU INCREASE PUBLIC CONFIDENCE IN THE WAY WE DEAL WITH ANTI-SOCIAL BEHAVIOUR?

Public confidence as we know is a very fragile thing. One minute your approach is popular with the public and increases confidence and the next it is not. That said we adopt a consistency of approach, we are open and honest in all our dealings with the public. We make good use of the local media, who have been very supportive, plus Twitter and Facebook. However, it all comes down to the service we offer and if the public feel we have done a good job, then it will spread by word of mouth. That coupled with publicising our successes should go a long way to increasing and improving public confidence. However, there is no margin for error, that confidence can be shattered in an instant through misinformation or not doing what we said we would.

We also have to manage what partners might say we can do, when we cannot, in the belief that they are offering the public a solution or shifting responsibility. Therefore managing expectations and communicating clearly is paramount. We also have to ensure that what we have said is clearly understood because sometimes it can or will be interpreted differently by members of the public in particular.

Question 24

YOU HAVE RECENTLY CHANGED THE WAY YOU TACKLE ASB AND UTILISE THE TIME OF ASB OFFICERS – WHAT ARE THE BENEFITS AND RISKS OF THIS APPROACH?

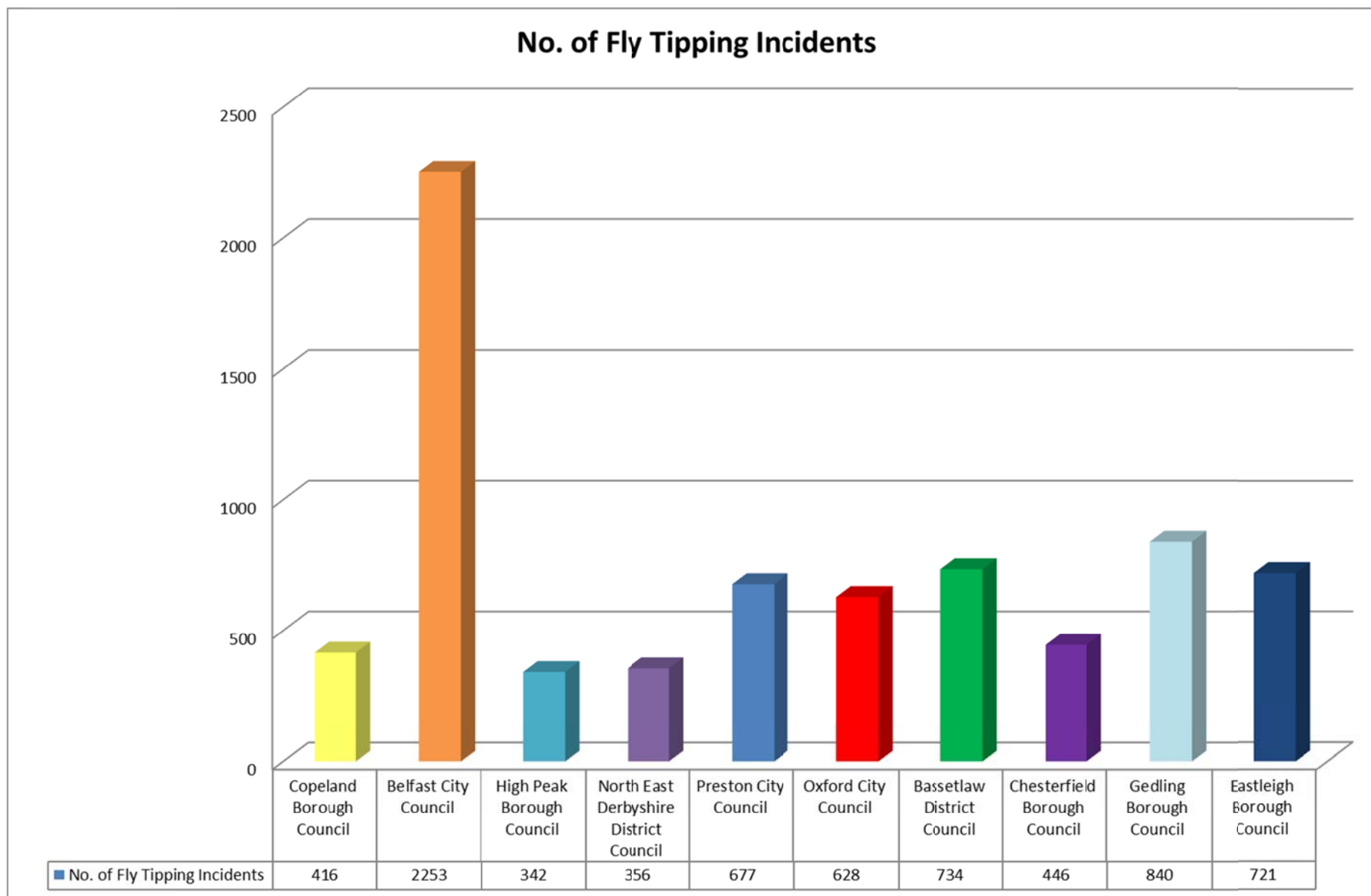
I do not think we have necessarily changed the way we tackle ASB - more we have shifted the emphasis towards enforcement through the Court. The benefits are that it raises the profile of the Council and obviously the ASB team, so that is good. I think the Team see more tangible outcomes in terms of this work whereas the prevention, intervention and rehabilitation agenda is more of a long term approach but is equally necessary. I think it also gives the public and our communities some respite from certain individuals. However enforcement action is only the start of the journey. Only the perpetrator can decide whether they are going to stop behaving in a certain way, whether they have a Court Order or not

against them. We need to ensure that we communicate this to the public and also the fact that we will need evidence in the future to tackle breaches of those orders.

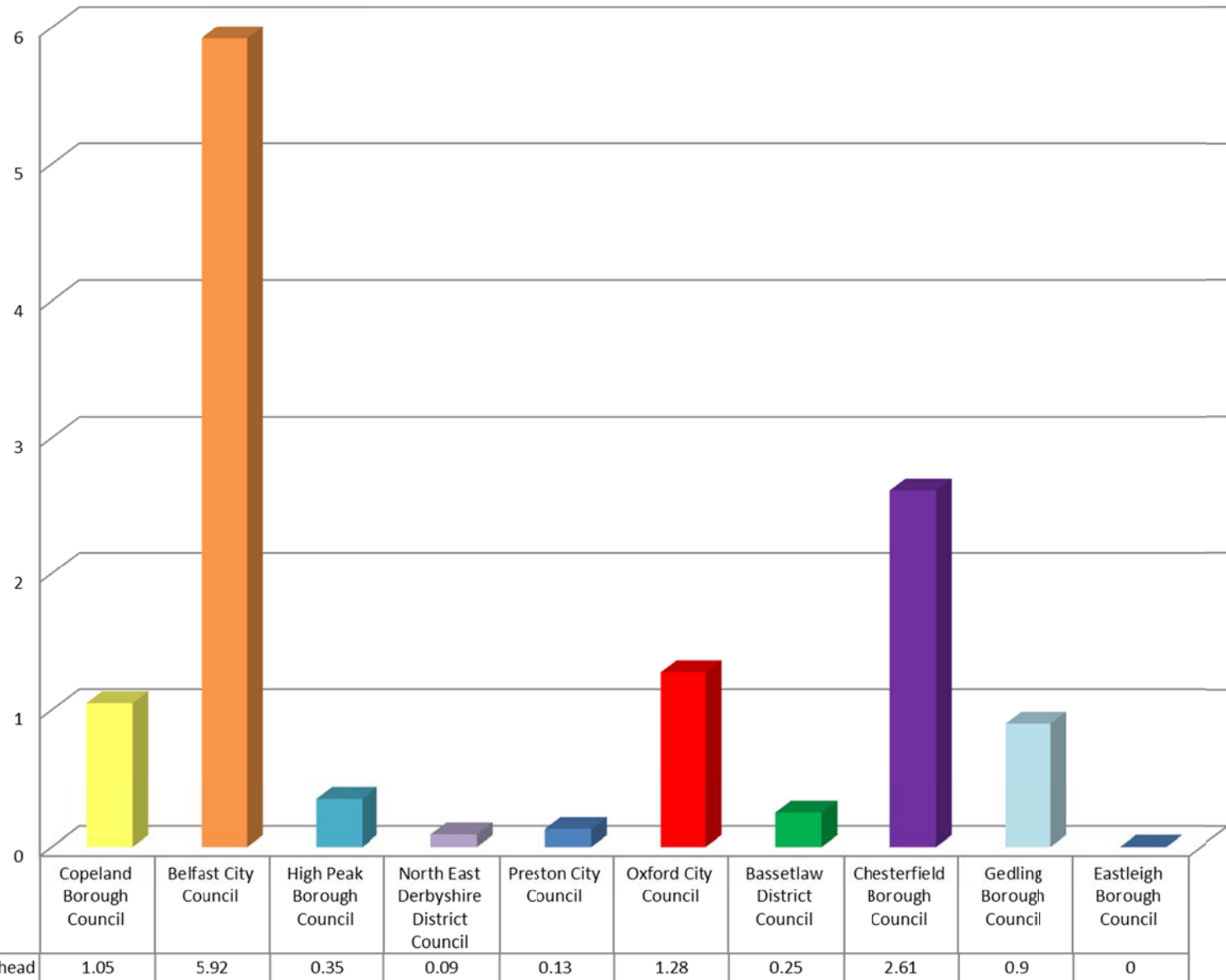
It is an on-going process and commitment for the life of the Order. This comes at a cost in terms of officer time, in managing the breaches and preparing paperwork for Court. If we have a number of breaches this impacts on our ability to be pro-active with new cases. This Court time comes at a cost whether it be in-house or external. If we are not careful it could be an increasing millstone around our necks in terms of cost. Yes the Court may award us costs but regrettably our clientele are unlikely to be in a position to reimburse us. We must do work around breaking the cycle of behaviour, for every individual what starts that process will be different.

Press releases on enforcement 2012 – 2013	
Month/Reference No.	Title of PR
Apr-12	
PR1622	Anti-social behaviour injunctions for three Kilton Glade residents
May-12	
PR1624	
PR1626	
Jul-12	
PRO1636	Trent Port Fly Tipping
Sep-12	
PR01621	Bassetlaw District Council Secure ASB Injunctions
Oct-12	
PR01641	Hayton man prosecuted over planning
Nov-12	
PR01644	Council Continues Crackdown on Anti-Social Behaviour
PR01646	Anti-Social Behaviour Injunctions – New Powers of Arrest
Jan-13	
PR01677	Unlicensed Waste Carrier Prosecuted
PR01678	Kilton Road Site
PR01867	ASBO Served on Persistent Offender
PR01688	Dog owners urged to clean up after pets
Feb-13	
PR01689	Judge Commends Community Safety Team for Combatting ASB
PR01690	ASBO for Shauni Potts
PR01692	Developer prosecuted over planning enforcement
PR01695	Second prison sentence for ASBI breach
PR01697	Fly-Tipper Caught on CCTV
PR01702	Fly-tipping Incident at Local Beauty Spot
Mar-13	
PR01708	Dog Control Orders - Consultation
PR01711	BDC Stepping up Enforcement on Dog Fouling
PR01713	Council Issues Fine Over Fly-Tipping in Clumber Park
Apr-13	
PR01715	Bassetlaw Responsible Dog Ownership Campaign 2013
PR01716	Retford Air Cadets Spring into action with clean up
PR01718	Fly-tipping in Rhodesia
May-13	
PR01725	Council crack down on fly-tippers
PR01731	Red Lane
PR01734	Council cracks down on illegal accommodation
PR01736	Prison sentence for Worksop man

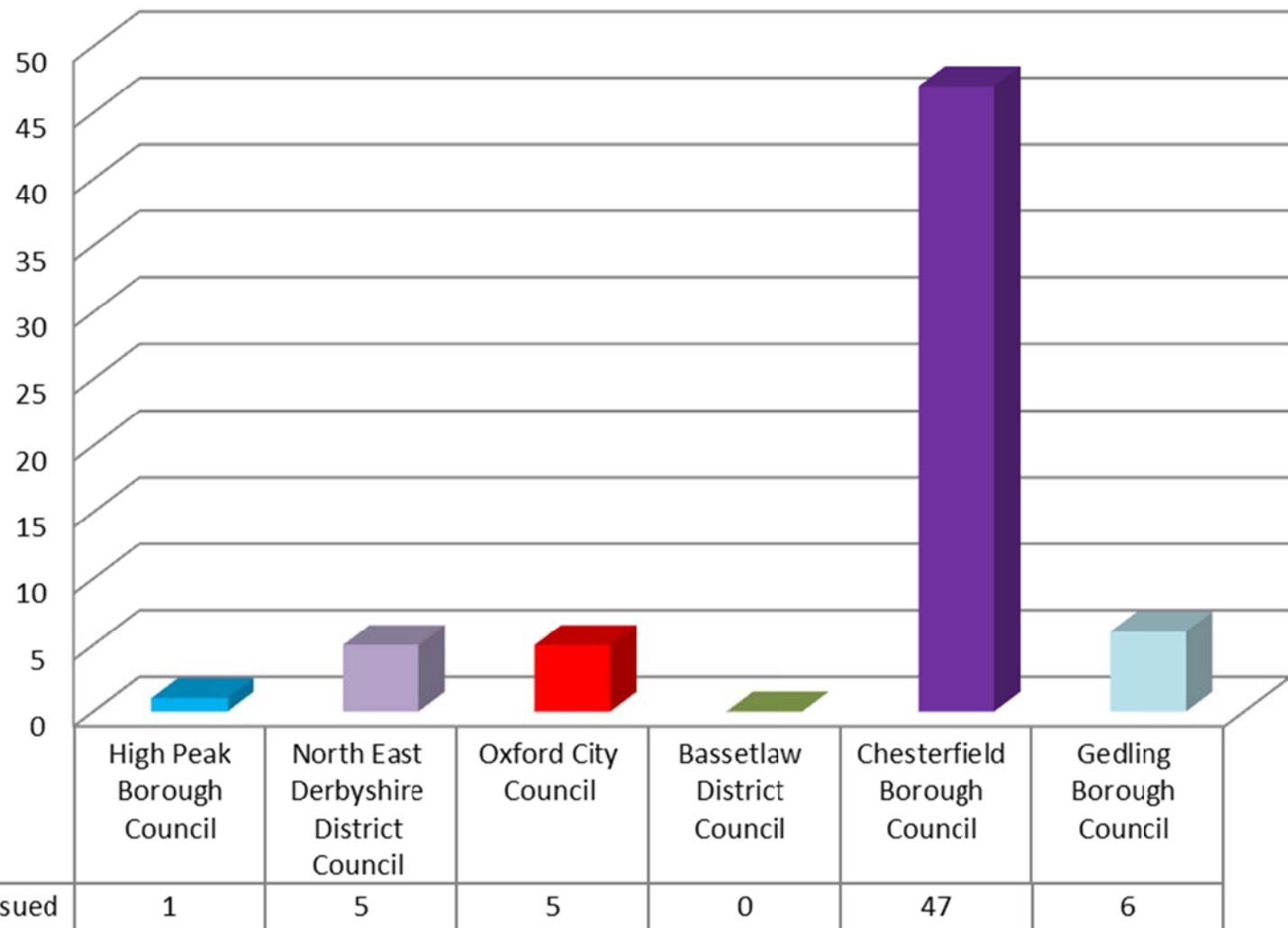
Enforcement – Fly Tipping Incidents, Litter Offences and Dog Fouling Notices – 2011/12



Litter Offence Notices Issues per 1,000 head



Dog Fouling Notices Issued



Dog Fouling Complaints

