



**Licensing and
Regulatory
Committee**

**Wednesday, 19 July
2017**

Matter for Information

Title: Corporate Enforcement Report

Author(s): Stephen Glazebrook (Interim Head of Community Services)

1. Introduction

- 1.1 There are a broad range of environmental standards and legislation enforced by Environmental Health and Licensing either independently or inter-dependently with other sections of the Council. This Report seeks to inform Committee of the responsibilities and the enforcement outcomes achieved in the last two months.

2. Recommendation(s)

- 2.1 Members are asked to note the contents of the report.

3. Information

3.1 Asbestos Case – Marstown Avenue - update

The owner of the site is required to provide an analytical clearance certificate for the site to allow the control measure to be reviewed by colleagues in PHE (Public Health England.). The purpose being to provide a clear statement on the status of the gardens for the residents, as currently the advice provided by the PHE last year remains in place, i.e. the gardens are not to be used.

On 16th February the site owner arranged to revisit residents where their gardens had been 'cleared' last year, but he reported problems with limited access to some of the gardens at the time. Quotes are also being obtained by Oadby and Wigston Borough Council to undertake this work to bring the matter to a conclusion.

PHE are aware of the action being taken on the site.

3.2 Dog Fouling

In this current financial year, the main focus of activity has been the provision of advice and proactively stencilling and placing additional signage where necessary across the Borough. Regular monitoring is still being done in the parks and open spaces across the Borough. Eighteen (18) monitoring visits have been undertaken evenly across the Borough's parks and open spaces and is seemingly acting as a deterrent.

Reliable intelligence has led to letters being sent to alleged perpetrators and the complainants being advised of this action so as to encourage further reporting, where necessary. Educational signs have also been erected in areas to further encourage responsible dog ownership by owners cleaning up after their dogs.

A visit on 6 March 2017 confirmed the success of this intervention on one case in Timber Street, South Wigston where there was a noticeable improvement in the standard of cleanliness in this street.

There were 26 dog related cases reported in this time. Just over half of the complaints were directly related to dog fouling on the streets leading to advice, stencilling and signage. 18 stray dogs were picked up and taken to Kennels. Other reported incidents were dogs were being aggressive to neighbouring households.

3.3 **Pest Control**

39 initial requests regarding pests in domestic settings were received in that time and the breakdown is shown in the table below:

Pest Type	No.
Rats	22
Mice	10
Cockroaches	0
Squirrels	3
Fleas/bedbugs	4
TOTAL	39

4. **Enforcement of Litter, Fly tipping and Accumulations**

These three areas tend to merge in terms of how they are classified, how they differ and what action can be taken and by whom.

Presently, there is a shared responsibility between Environmental Health and the Green Team.

4.1 **Statistical Report**

Environmental Health received 20 reports of fly tipping during the period which were investigated and progressed within the stipulated response times. In addition to this the Borough is regularly monitored for any nuisances in line with the requirements of the Environmental Protection Act 1990 section 79 (1).

Anti Social Behaviour Crime and Policing Act 2014 s.43-58; four orders have been served in the period.

No Fixed Penalty Notices were served in the period.

5. **Legislative Review**

5.1 **Litter**

In the Oadby and Wigston leaflet prepared for residents entitled 'Litter and the Law – a guide for the public' it states that "Litter can be as small as a sweet wrapper, or as large as a bag of rubbish, or it can mean lots of items scattered about. The legislation also specifically clarifies that discarded gum products, cigarette ends, and matches are types of litter."

Section 87 (1) of the Environmental Protection Act 1990 states the offence of 'leaving litter' as such:

"A person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place to which this section applies and leaves it."

Further in that section it refers to litter being left in the open air in the area of a principal litter authority to which the public has access with or without payment.

5.2 **Fly Tipping**

Fly tipping is the illegal deposit of waste on land contrary to Section 33(1)(a) of the Environmental Protection Act 1990. The types of waste fly tipped range from 'black bag' waste to large deposits of materials such as industrial waste, tyres, construction material and liquid waste.

Local councils and the Environment Agency (EA) both have a responsibility in respect of illegally deposited waste. Local councils deal with most cases of fly tipping on public land, whilst the EA investigates and enforces against the larger, more serious and organised illegal waste crimes.

It is worth noting that in 2015/16 the estimated cost to Local Authorities in England was £49.8 million.

5.3 **Accumulations**

This describes any collection of waste material(s) in a specific location and could be as a result of the act of littering or fly-tipping. In section 79 (e) of the EPA1990 an accumulation is included in the list of statutory nuisance as:

"any accumulation or deposit which is prejudicial to health or a nuisance"

This essentially deals with the residue left from littering or fly-tipping whether it contains organic matter such as food items or inert material such as concrete, metal and wood. Environmental Health has powers to serve statutory notices for sites to be cleared and will enforce site clearance to the default of the site owner, if the notice has not been complied with.

6. **Abandoned Vehicles**

There have been 23 reports received of abandoned vehicles, all of which were investigated and progressed. In several cases, the reported vehicle did not meet the criteria for an abandoned vehicle so no formal action could be taken. In all such cases, the complainant was advised of the outcome of our investigation. Further work is being done to improve the quality of referrals so as to reduce the number of complaints of illegal or nuisance parking being reported as 'abandoned vehicles.

7. **Food**

7.1 **Food Inspections**

The Department has a duty to undertake inspections of Food Hygiene premises. During the inspection and under guidance from the Food standards Agency the premises are rated. The Food Hygiene Ratings can be viewed at <http://ratings.food.gov.uk/>

Food Hygiene inspections from 1/4/17, due to an absence of a member of staff, had an impact on the inspections undertaken. Additional funding was provided by the Council for a consultant Food Inspector resulting in the increased inspection frequencies.

Food Hygiene inspections by Month 2017

Month	No.
April	1
May	0
June	8
July	8

New business registered from 1/4/17 - 8

Request for revisit under Food Hygiene Rating System - 2

7.2 **Food Hygiene Rating System**

7.2 **System**

Scores by Category

Food Hygiene Category	Premises
0	1
1	3
2	3
3	18
4	51
5	245
Total	321
Broadly Compliant Category 4 and 5	93%

8. **Service Requests**

Service requests are issues received from Residents in relation to Environmental, Housing and Commercial issues.

The department has received 199 requests for Service between 1/4/17 to 30/6/17.

9. **Infectious Diseases**

The Department undertakes investigations of Infectious diseases in conjunction with Public Health England.

The department investigated 7 new cases of infectious disease between 1/4/17 to 30/6/17.

10. Departmental Update

During the reporting period 1/4/17 to 30/6/17 the Food Standard Agency annual statutory report has been submitted and an internal audit has also been carried out.

In addition, The Food Standard Agency "Regulating our future" Seminar was attended. The Seminar dealt with regulating food business after Brexit. The Key issues that arose where:

- Businesses will be required to pay for the service they receive from the LA inspection and or the use of regulated Auditors.
- The money raised is intended to be ring fenced to LA.

A more enhanced way of registration of new businesses is to be implemented and FHRS will then be made mandatory after Brexit.

11. Taxi Applications

On the 6 April 2017 the Licensing Enforcement Officer reported for the period of 5 April 2016 to the 6 April 2017 that the Licensing department had processed 450 applications relating to Taxi's only.

Below are the comparisons of licences held between 6 April 2017 and 6 July 2017.

Type of licence as of 6 April 2017	No.	Type of licence as of 6 July 2017	No.	Percentages
Combined Drivers badges	282	Combined Drivers badges	345	18%
Outstanding CD Applications	72	Outstanding CD applications	114	36%
Hackney plated Vehicles	156	Hackney plated Vehicles	189	17%
Private Hire plated vehicles	88	Private Hire plated vehicles	83	-5%

11.1 Increasing Demand

Due to the increasing demand of applicants applying for combined drivers badges, it has become necessary to increase the amount of competency tests to two each month to meet demand. We are presently taking bookings for October 2017.

Legislation dictates that the Council are not able to restrict the number of drivers and are unable to restrict the amount of Private Hire vehicles.

11.2 Local Government (Miscellaneous) Provisions Act 1976 Section 51 Licensing of Drivers of Private Hire Vehicles

Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

- a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- b) To any person who has not for at least twelve months been authorised to drive a motor car or is not, at the date of the application for the driver's licence, so authorised.

This section states the reason you can refuse a private hire driver's licence. Limiting the number of drivers is not one of the reasons.

11.3 **Local Government (Miscellaneous) Provisions Act 1976**

Section 48 Licensing of Private Hire Vehicles

- 11.3.1 Subject to the provisions of this Part of this Act, a district council may, on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied:

- a) That the vehicle is:
 - i) suitable in type, size and design for use as a private hire vehicle;
 - ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - iii) in a suitable mechanical condition;
 - iv) safe; and
 - v) comfortable
- b) That there is in force in relation to the use of the vehicle, a policy of insurance or such security as complies with the requirements of Part VI of the Road Traffic Act 1988 and shall not refuse such a licence for the purpose of limiting the number of vehicles in respect of which such licences are granted by the Council.

- 11.4 The Council is able to restrict the number of number Hackney Vehicle licences it issues, providing it is satisfied that there is no unmet demand for these vehicles (Transport Act 1985 section 16).

The provisions of the Town Police Clauses Act 1847 with; Taxi licensing: respect to hackney carriages, as incorporated in any enactment control of (whenever passed), shall have effect- numbers.

There is no obligation for the Council to undertake a survey of unmet demand unless it wishes to restrict the number of Hackney Carriage Vehicles it licenses. Members are advised that should they require such a survey and it indicates that a restriction in the number of licences issued is suggested, and implemented. The Council would have to carry out further surveys of unmet demand every 3-5 years. It is to be noted that the cost of the survey cannot be met from the licensing fees.

- a) As if in section 37, the words "such number of" and "as they think fit" were omitted; and

- b) As if they provided that the grant of a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.

13. Enforcement Action

13.1 Taxi Enforcement:

Enforcement action is presently underway in relation for drivers who are breaching the Council's "Intended Use Policy".

Five applications for Combined Drivers licences are being scrutinised after the Licensing Department have received the DBS certificates and the applicant's suitability investigated. Two applications have been refused due to information contained within the DBS certificates received.

The Enforcement Officer has attended several meetings at County Hall in relation to a driver licensed within the Borough over safeguarding matters; the allegation against the driver is ongoing and he and his operator have been suspended from completing School contracts. Other Licensing authorities are providing safeguarding education to their drivers as a pre-requisite for holding a badge and it is the belief of the Enforcement Officer that this should be the case within Oadby and Wigston ensuring the safety of our residents and our drivers. A report will be provided to a later committee outlining proposals for safeguarding training for prospective drivers and existing drivers.

The Enforcement Officer is still working with PS Booth of Leicestershire Police in relation to Manor Road/Stoughton Road South in relation to the Leicester City Hackney Carriages plying for hire in our area. The academic year has ended which will reduce the amount of complaints that we have received. Due to recent terrorist attacks and operational commitments the Police have been unable to provide Police Officers to accompany Officers to conduct checks.

13.2 Licensed Premises:

Several licensed premises have been inspected in conjunction with PS Booth, since the last Licensing Committee meeting in April 2017 we have not received any further reports of noise nuisance from the properties on the Parade. However, there have been complaints of nuisance parking throughout Oadby. A response has been received from County Hall in respect of Civil Parking Enforcement Officers working overtime from 2000hrs to Midnight on a Friday and Saturday.

13. Launceston Road Shops

Reports have been received of underage drinking and littering at the rear of the Launceston Road Shops. On speaking to the Local Policing Neighbourhood team they have received the same reports however, when Officers have attended the area they have not witnessed this. Licensing checks have been made to all of the licensed shops on Launceston Road and the licensees spoken to. All have said that a small amount of young people congregate over the weekends but not for extended periods of time. All have been advised to research anti loitering equipment which prevents young persons from loitering by emitting a high pitch sound.

Background Documents:

None.

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Implications Community Enforcement Report	
Finance Chris Raymakers Finance and Accountancy Manager	There are no significant financial implications.
Legal Anne Court Director of Services / Monitoring Officer	There are no significant legal implications.
Corporate Risk(s) (CR) Stephen Glazebrook Interim Head of Community Services	<input checked="" type="checkbox"/> Regulatory Governance (CR6) Ensuring the Council adopt a coherent and transparent enforcement Policy across the Borough and across all tenures. <input checked="" type="checkbox"/> Other Corporate Risk(s) Failure to implement the Policy will leave the Council in a position of being unable to defend actions taken by enforcement offices in pursuance of their required duties.
Corporate Priorities (CP) Stephen Glazebrook Interim Head of Community Services	<input checked="" type="checkbox"/> An Inclusive and Engaged Borough (CP1) All the Borough will be covered by an all encompassing enforcement Policy. <input checked="" type="checkbox"/> Effective Service Provision (CP2) Provides direction and focus for enforcement decisions.
Vision & Values (V) Stephen Glazebrook Interim Head of Community Services	<input checked="" type="checkbox"/> Accountability (V1) Policy makes all enforcement officers responsible for a course of action. <input checked="" type="checkbox"/> Respect (V2) All persons that will meet enforcement offices will be provided with a respectful and transparent approach to dealing with the issues at hand. <input checked="" type="checkbox"/> Teamwork (V3) Cross department methodology building teamwork within the departments.
Equalities & Equality Assessment(s) (EA) Tony Cawthorne Environmental Health Officer	Not applicable. <input type="checkbox"/> Initial EA Screening <input type="checkbox"/> Full EA Assessment <input checked="" type="checkbox"/> Not Applicable