
REPORT TO:	ENVIRONMENT & DEVELOPMENT SERVICES	AGENDA ITEM: 6
DATE OF MEETING:	6th JULY 2020	CATEGORY: RECOMMENDED
REPORT FROM:	ALLISON THOMAS, STRATEGIC DIRECTOR – SERVICE DELIVERY	Open
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SUBJECT:	ANNUAL ENFORCEMENT AND COMPLIANCE REPORT 2019-20	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE: EDS14, HCS10

1. Recommendations

- 1.1 That the Committee notes the contents of the report and approves that the Council is using its regulatory powers in a way proportionate to the demands for all regulatory services it provides.

2. Purpose of Report

- 2.1 To provide the Committee with details of the Council's use of its tools and powers to take appropriate enforcement action during the 2019/20 reporting period.

3. Background

- 3.1 Under the priority of 'Our Environment' in the 2020-2024 Corporate Plan, one of the key aims is "*Reduce fly tipping and litter through education, engagement and zero tolerance enforcement action where appropriate*".
- 3.2 Under the priority of 'Our People', one of the key aims is "*Help tackle anti-social behaviour and crime through strong and proportionate action*".
- 3.3 The Council is authorised to use in excess of 100 different statutes to regulate and ensure compliance in areas of work as diverse as planning, food hygiene, licensing, pollution control, anti-social behaviour, building control, public health, waste and dog control.
- 3.4 The way in which the Council utilises these powers is governed by law, statutory guidance and previous legal precedent. Some services (notably many of the functions of Licensing and Environmental Health) also have a duty to have regard to the five governing principles of the Legislative and Regulatory Reform Act 2006, namely that all regulatory interventions are *transparent, accountable, proportionate* and *consistent* and should be *targeted* only at cases in which action is needed.

3.5 This report provides a high level summary of the regulatory action over the past year and provides a comparison against historical levels of regulatory action.

Demands for services

3.6 The demand for Council services in 2019/20 compared to previous years is illustrated in Figure 1 in the report appendix.

3.7 Complaints about air pollution have progressively increased over the last five years. The largest source of complaints is about smoke from domestic and non-domestic bonfires. Nevertheless, air quality monitoring data from across the District shows that air quality has improved over the last five years.

3.8 For the third consecutive year there has been a significant reduction in complaints about dogs in public places (fouling, animal welfare concerns, dogs off leads). This may be a reflection of the introduction of new laws on microchipping and the increased activity of the Community Safety Enforcement Officers in issuing fixed penalty notices for dog offences, although it is likely that there are a range of causes of this welcome trend.

3.9 The Council ran two education and engagement campaigns in 2019/20 relating to dog fouling (We're Watching You) and litter prevention (Swadlincote Heroes).

3.10 The Council continues to receive high volumes of complaints about public health problems. Predominantly these consist of waste on private land, untidy land, filthy and verminous property, drainage complaints and other forms of nuisance such as light trespass and high hedges.

3.11 The Council received a higher number of complaints about noise nuisance in 2019/20 than in any previous year. The increase in complaints is mainly attributed to the continued rapid growth of the population of South Derbyshire. The Council receives 5.2 noise complaints a year per thousand head of population, which is marginally above the Council's target to keep the numbers of complaints below 5.0 per thousand head of population.

3.12 The number of complaints about abandoned vehicles has reduced slightly compared to the peak in 2016/17. Nevertheless, the number of complaints is still five times higher than they were in 2014.

3.13 Sadly, the number of fly tipping incidents in 2019/20 went up for the first time in three years. Incidents of fly tips were particularly high during the period June to October 2019. This reflected a particular increase in incidents on Lowes Lane, Swarkestone. Investigations by the Community Safety Enforcement Team into these offences established that the incidents may be linked to a handful of individuals involved in a wider criminal gang. Investigations continue and it is anticipated that criminal charges will be brought on the conclusion of the investigation. Most tellingly, at the point at which individuals under suspicion became aware that they were under investigation, the incidents significantly reduced.

3.14 In addition to Licensing applications determined by Officers, several applications and licence holders were referred to the Licensing and Appeals Sub-Committee for their consideration. During 2019-2020, the Licensing and Appeals Sub-Committee:

- Revoked two personal licence due to convictions;

- Issued a counternotice for one temporary event notice after an objection from the Police and Environmental Health. The counternotice meant the licensable activities planned at the event were not authorised and therefore it could not take place;
- Revoked one private hire driver's licence;
- Revoked one private hire operator's licence;
- Refused to grant one private hire driver's licence;
- Granted one personal licence;
- Granted five private hire driver's licences.

3.15 In addition, under delegated authority, one private hire driver's licence was revoked with immediate effect due to public safety concerns.

3.16 Particular concerns about anti-social behaviour are reflected in the new Corporate Plan aim identified in paragraph 3.2 of this report. A new performance indicator relating to anti-social behaviour has been developed and will be reported on a quarterly basis through the Corporate Plan reporting process.

Demands for Inspections of Businesses

3.17 Food hygiene law requires that businesses are risk assessed and then inspected with a frequency based on national legal guidance. Figure 2 in the appendix to this report illustrates the number of inspections carried out.

3.18 As of April 2020, 86.8% of food businesses in South Derbyshire had been awarded the top score for their food hygiene. This is the highest ever percentage of businesses to achieve the top rating and reflects the continuous work of Environmental Health staff to encourage and support the local food and drink sector to maximise its potential.

3.19 The 13% of food businesses who are yet to meet the top score are the toughest group to positively influence. The Commercial Team, which delivers food hygiene inspections, is looking at various forms of behavioural change interventions as well as direct legal action on the rare occasions it is appropriate, to improve the Council's influence on this hard to change group.

3.20 Hygiene standards in 99.4% of food businesses were assessed as being 'broadly compliant' which means that the Council's food inspectors are satisfied that they can be left to manage their own hygiene practices until their next programmed inspection. In April 2019, this figure was 98.8% which, at the time, was the fourth best in the UK.

Proactive Measures

3.21 During 2019, seven pre-existing Public Spaces Protection Orders (PSPO) were approved to take effect for a further three years. In addition, a further two PSPOs were approved to control anti-social behaviour around Maurice Lea Park and to prevent fly tipping at Lowes Lane, Swarkestone.

3.22 Following Committee approval in 2019, a new Community Safety Enforcement Officer (CSEO) was appointed in June 2019 with a specific brief to help assist deliver the vision for Swadlincote Town Centre and to maximise the benefits for all residents of the towns

parcs and open spaces. The CSEO has been successfully involved in tackling Town Centre anti-social behaviour and engaging with Town Centre businesses.

Legal Interventions

- 3.23 The Council has published an [Enforcement Policy](#) which explains how it will use the various tools and powers to help the business community and residents to meet the various laws the Council is tasked with regulating. When the Council is unable to ensure compliance through persuasion it may be necessary to resort to use of more formal means. The Council has powers in the form of various compliance notices which can be issued requiring some form of action to be taken (or to be stopped) by the recipient in order to more formally require compliance than through advice and guidance.
- 3.24 Figure 3 in the appendix to this report illustrates the numbers of formal notices issued and in broad terms the nature of the problem which led to the notice being served.
- 3.25 Overall, the number of legal notices served has remained relatively consistent over the past five years. There has been a reduction in the number of legal notices which have been issued due to defects in private sector housing, however this reflects a change in the way that the Council is rectifying housing defects as a result of additional funding which has been made available for housing improvements through the Better Care Fund.
- 3.26 In addition to the legal notices reported, Council officers also issued a total of 17 Community Protection Notices and were granted six Criminal Behaviour Orders by the courts to address various forms of anti-social behaviour.

Punitive Outcomes from Offences

- 3.27 In a small number of cases, the Council is required to resort to the courts or other forms of judicial punishment for confirmed offences. This can be in one of three forms:
- For a limited number of offences and where the offender admits to the offence a fixed penalty notice can be issued;
 - Where the offender admits the offence and there is no fixed penalty notice option available, but prosecution is not deemed to be proportionate then the offender may be given the option to sign a formal caution;
 - The most severe form of intervention is a prosecution.
- 3.28 Table 1 below summarises the recent numbers of each of these punitive outcomes compared to historical levels.

Table 1 – Summary of Punitive Outcomes following Offences

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Total Fixed Penalty Notices	6	34	91	79	72	27
Dog offences	1	23	9	6	14	4
Fly tipping & waste offences	1	0	7	7	8	5

Litter	4	8	65	54	43	13
Community Protection Notice / PSPO breach	0	3	10	12	4	4
Abandoned vehicles	0	0	0	0	3	1
Formal Cautions	3	3	1	3	4	6
Prosecutions	0	3	1	5	7	5

- 3.29 Between 2016 and 2019, Council officers made greater use of fixed penalty notices for low level offences than was the case in 2019-20.
- 3.30 The main reduction in the use of fixed penalties has been for littering offences. In previous years fixed penalties for littering were frequently being issued where individuals had inappropriately left waste at recycling centres. Most typically this consisted of offenders leaving recyclable waste at the side of the collection bins and therefore causing material to be blown away in the wind or of offenders leaving non-recyclable material such as food and other household waste.
- 3.31 Until 2016 officers had mainly dealt with these offences through advice and education. However, from 2016 when it became apparent that the frequency of incidents was not improving it was considered necessary to develop a less tolerant approach and offenders began being interviewed under caution and issued with fixed penalties.
- 3.32 This more robust enforcement strategy appears to have been relatively successful. Incidents of waste offences at recycling centres have significantly reduced and as a consequence so has the number of fixed penalties issued.
- 3.33 Five prosecutions were taken during 2019/20, of which three related to waste offences, one to a private rented housing offence and one an animal welfare offence.

Cases of Particular Note

- A woman from Newall pleaded guilty to breaches of the Animal Welfare Act as a result of allowing her property to become littered with animal excrement and urine throughout the living room and kitchen. The woman was jailed for 12 weeks, given a lifetime ban on keeping pets and ordered to pay more than £3,000 costs after pleading guilty to two charges of animal neglect.
- A landlord from Woodville was fined £10,000, with a victim surcharge of £170 and legal costs £5,000 for failing to comply with a legal notice under the Housing Act requiring improvements to a private rented property on High Street, Woodville. The defects to the property included dangerous electrical installation, a dangerous, untested open flue gas appliance, no hot water, serious mould growth, a wash hand basin in a state of collapse, no functional heating, rising damp, an insecure front door and no fire detection. The property was occupied by a single mother and small children and so emergency repair work was carried out by Council officers to make the property safe and recharged to the landlord.
- A man and a woman from Swadlincote were both convicted of dumping waste consisting of approximately 40 bags of kitchen and domestic waste including beer cans, spirit bottles, rotting food and a large quantity of cat faeces on Darklands Road, Swadlincote. The man was given a 12-month Community Order with requirement to complete 100 hours unpaid work, £85 victim surcharge and £400 costs. The woman was fined £40, with a £32 victim surcharge and ordered to pay £300 towards costs.

- A number of reports were made to the Communities Team and the Police regarding youths causing nuisance on bikes around various locations within Swadlincote Town Centre. The youths were riding dangerously within the pedestrianised Town Centre, riding dangerously on the road in large numbers and even going into shops on their bikes. Following collaboration between the Police and District Council officers six Community Protection Notice warnings and one Community Protection Notice were issued which put a stop to the group's behaviour.
- Five successful applications for Criminal Behaviour Orders have been made by the Council to the courts to control the behaviour of individuals who have been consuming alcohol in Swadlincote Town Centre.

4. Financial Implications

- 4.1 The Council's regulatory services cover environmental health, licensing, community safety and planning. Overall, the net cost of these services is approximately £1,000,000 and the Council has progressively reduced these net costs in recent years while at the same time increasing the volumes of work activity.
- 4.2 Benchmarking the costs of the Council's regulatory services to other Councils in the UK suggests that overall the services provided are at a relatively low cost. Based on benchmarking data published by the Local Government Association (LGA) (published on LG Inform) South Derbyshire's total expenditure per head of population on environmental and regulatory services is;
- the 2nd lowest of the 40 single tier and district councils in the East Midlands (£43.90 per head compared to a regional mean of £63.70);
 - the lowest of the Council's 15 CIPFA near neighbours (£43.90 per head compared to a near neighbour mean of £64.50);
 - the 8th lowest out of all of the 192 English District Councils (£43.90 per head compared to a national mean of £67.65).

5. Corporate Implications

Employment Implications

- 5.1 None.

Legal Implications

- 5.2 None.

Corporate Plan Implications

- 5.3 The report has been produced to provide the Committee with details of how officers are delivering the "Our Environment" aim to *Reduce fly tipping and litter through education, engagement and zero tolerance enforcement action where appropriate* and the "Our People" aim to *Help tackle anti-social behaviour and crime through strong and proportionate action priority through People* in the 2020-24 Corporate Plan.

Risk Impact

- 5.4 The proposals will have a beneficial mitigating action against the corporate risk of "Managing the environmental impact of incidents across the District".

6. Community Implications

Consultation

6.1 None

Equality and Diversity Impact

6.2 Fair and proportionate application of the law should ensure that improvements in equality and diversity are indirectly delivered by tackling crime and anti-social behaviour.

Social Value Impact

6.3 Beneficial.

Environmental Sustainability

6.4 Beneficial. Proportionate regulation is an important feature of ensuring community cohesion. It also ensures positive economic growth by preventing businesses which operate outside the law from gaining a competitive advantage in their respective market.

7. Conclusion

7.1 That the Committee notes and endorses the work that officers are undertaking, using the tools and powers available, to take appropriate enforcement action where necessary.

8. Background Papers

8.1 None

Figure 1 - Requests for Enforcement Action

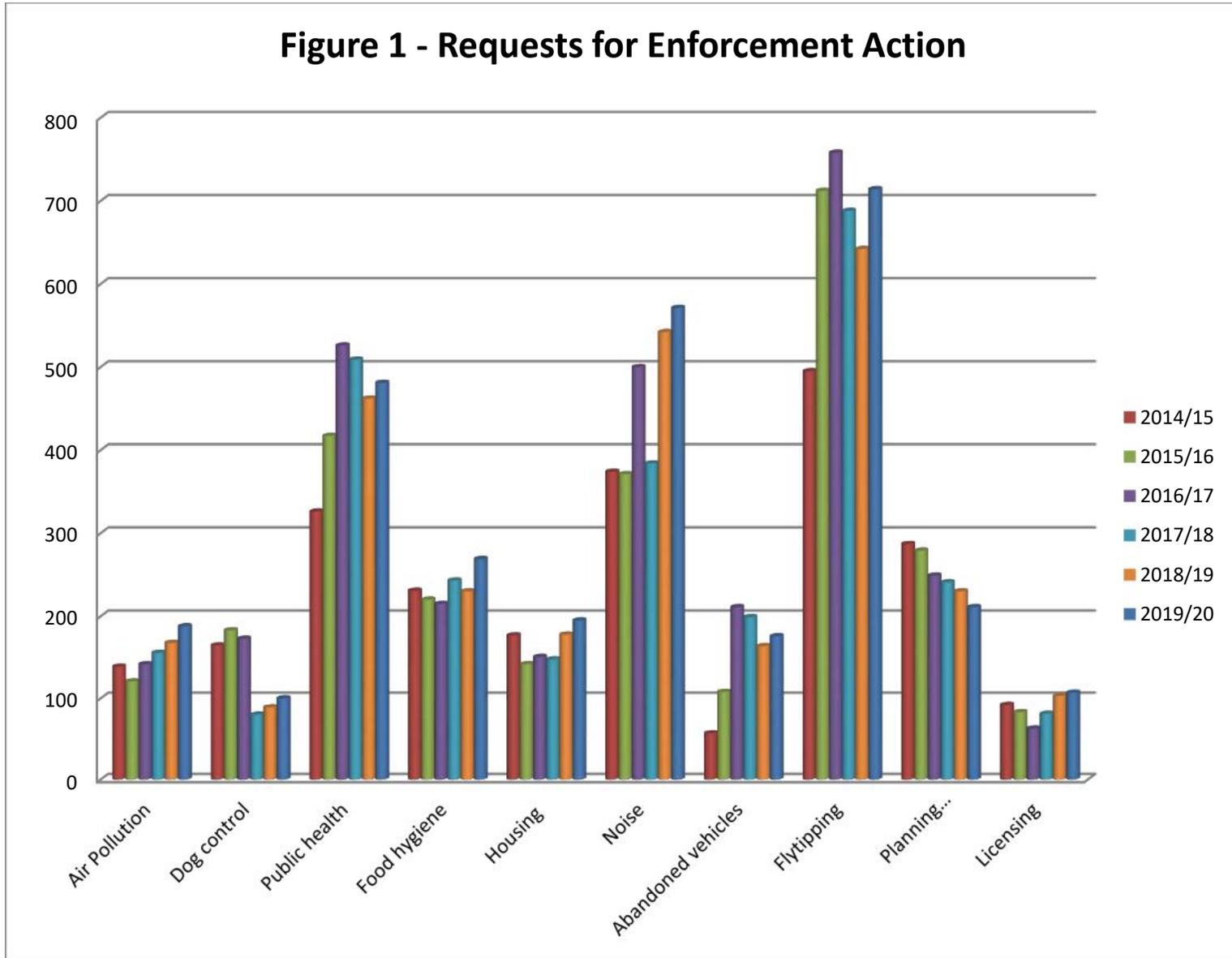


Figure 2 - Proactive Inspections of Businesses

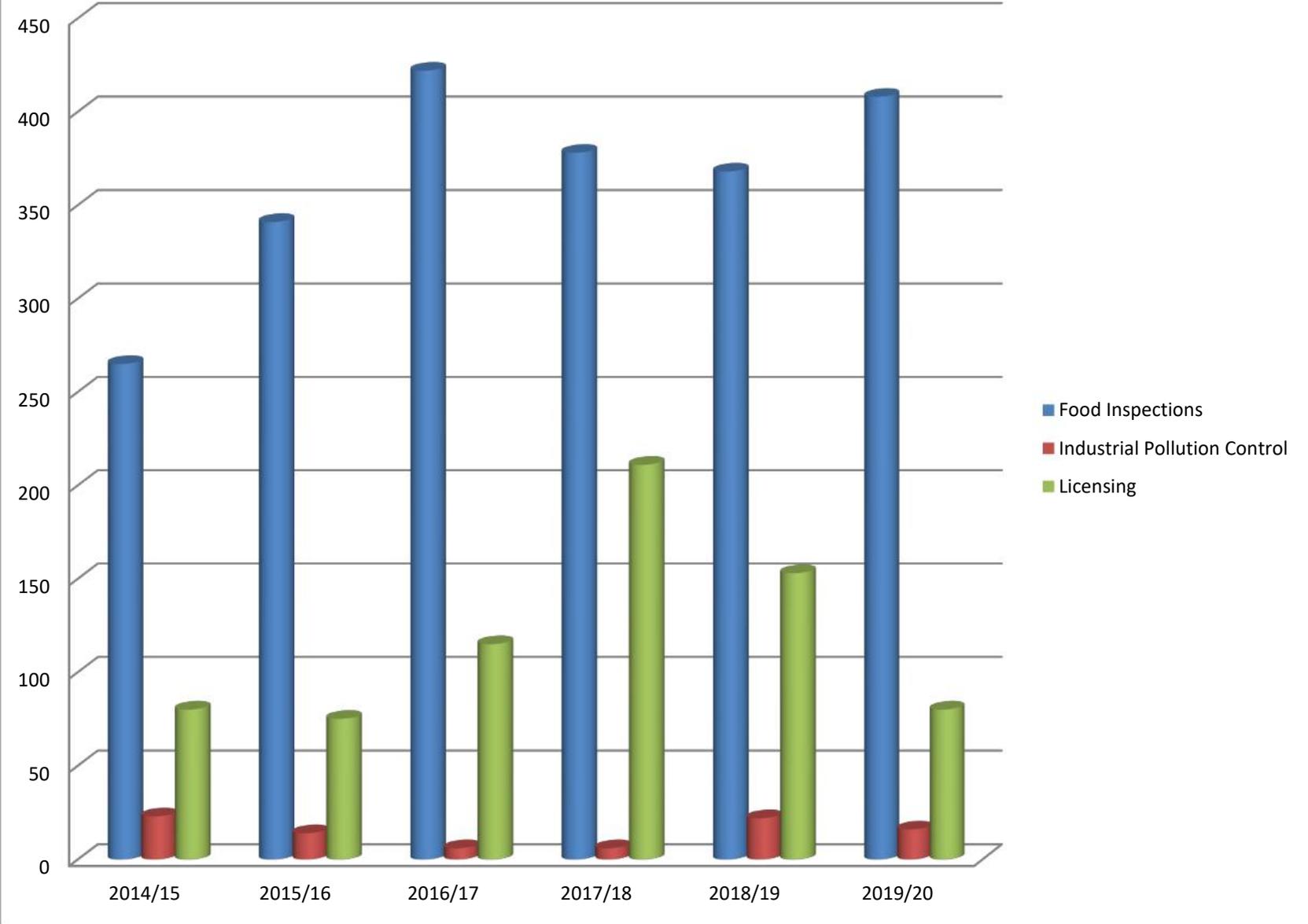


Figure 3 - Enforcement Notices Served

