
REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 13
DATE OF MEETING:	1st JUNE 2017	CATEGORY: RECOMMENDED
REPORT FROM:	FRANK McARDLE CHIEF EXECUTIVE	EXEMPT PARAGRAPH NO: Not Exempt
MEMBERS' CONTACT POINT:	MATT HOLFORD ENVIRONMENTAL HEALTH MANAGER	DOC:
SUBJECT:	ENFORCEMENT AND COMPLIANCE REPORT	REF:
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: EDS14, HCS10

1. Recommendations

- 1.1 That Members satisfy themselves on the basis of the report 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 Members with details of the Councils use of its tools and powers to take appropriate enforcement action.

3. Background

- 3.1 One of the key objectives identified by Members under the 'People' theme of the 2016-21 Corporate Plan was that the Council would "*Use existing tools and powers to take appropriate enforcement action*".
- 3.2 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.
- 3.3 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.
- 3.4 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

- 3.5 The demand for our services this year is illustrated by Figure 1 in the report appendix.
- 3.6 On average, the demand for our reactive regulatory services were 16% higher than over the last 3 years.
- 3.7 The increase has predominantly been due to increases in complaints about public health problems, noise, abandoned vehicles and fly-tipping.
- 3.8 Complaints about public health related matters have been dominated by complaints about waste and vermin on private land and overgrown gardens.
- 3.9 Complaints about abandoned vehicles were twice what they have been in previous years. There is a close correlation between abandoned vehicles and the price of scrap metal and therefore we anticipate that demand for this service will remain high as long as scrap value stays low.
- 3.10 Noise complaints were more than 30% higher than in previous years and fly-tipping increased by 6% compared to last year. More details of underlying reasons for this and the Councils response is contained in the progress report on Corporate Plan Measures.

Demands for Inspections of Businesses

- 3.11 Food hygiene and pollution control laws require 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.
- 3.12 We carried out 24% more food safety inspections in 2016/17 than in the previous year. The increase reflects the continued growth in the number of registered food businesses operating in the district. More than 84% of food businesses have been awarded the top score for their food hygiene.

Legal Interventions

- 3.13 The Council has published enforcement policies which explain how we will go about using our various tools and powers to help our business community and residents to meet the various laws we are tasked with regulating. When we are unable to ensure compliance through persuasion we may need to resort to use of more formal means. We have 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.
- 3.14 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.

Punitive Outcomes from Offences

- 3.15 In a small number of cases, the Council is required to resort to the courts or other forms of judicial punishment in order to seek restitution for confirmed offences. This restitution can be in one of three forms; Firstly, for a limited number of offences and where the offender admits to the offence, we can issue a fixed penalty notice. 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. Usually the most severe form of intervention is a prosecution.

3.16 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

	2013-14	2014-15	2015-16	2016-17
Total Fixed Penalty Notices	3	6	34	91
Dog offences	0	1	23	9
Fly tipping & waste offences	1	1	0	7
Litter	2	4	8	65
Community Protection Notice / PSPO breach	0	0	3	10
Formal Cautions	0	3	3	1
Prosecutions	0	0	3	1

3.17 Overall the Council is making significantly greater use of fixed penalty notices for low level offences than has previously been the case.

3.18 In 2015-16 Safer Neighbourhood Wardens focused on using FPNs to improve the control of dogs within the Districts parks and open spaces. Anecdotal feedback from park users is that the increase in enforcement activity in 2016 resulted in a significant improvement in dog stewardship in the parks.

3.19 This year significantly more FPNs have been issued for littering offences - mainly relating to material being left illegally at the recycling sites at Hatton and Willington (see Figure 1). The Council has also increased its use of the new anti-social behaviour laws which enables fixed penalty notices to be issued for breaches of Community Protection Notices and Public Spaces Protection Orders.

Figure 1 – Side Waste ‘Littering’ in Hatton



3.20 Fixed Penalty Notices are issued where the recipient admits to the offence and agrees to pay the fine to discharge their liabilities. If the recipient of an FPN

subsequently fails to pay the fine then the Council should be considering the need to prosecute for the offence. To date no prosecutions have been taken for failure to pay an FPN.

Cases of Particular Note

- The first penalty notices have been issued for breaches of the Swadlincote Town Centre Public Spaces Protection Order, which members approved in September 2016.
- We have issued our first £400 penalty to a man found to be offering waste disposal services via Facebook without having been given approval as a registered waste business from the Environment Agency.
- Our action to prevent fly-tipping appeared on the One Show on BBC1 on 8th March.
- We have been awarded two contracts to provide compliance support services to Erewash District Council and Severn Trent Water Ltd.
- Two food businesses have asked us to set up a Primary Authority agreement with them. This is a legally recognised partnership whereby the food hygiene advice we give multi-site businesses is legally binding on other councils to take into account when they inspect the business.
- A legal notice has been served on the landlord of a property in Church Gresley prohibiting the attic of the dwelling from being occupied due to fire risk and inadequate access.
- Emergency remedial action has been taken at properties in Swadlincote due to the imminent risk of collapse of a wall.

4. Financial Implications

- 4.1 None to minor adverse. Most forms of actions to achieve compliance have a cost implication. In cases of formal legal interventions we will always seek to recover costs, however most of the rest of the costs are currently established within the revenue budgets of each of the relevant departments.

5. Corporate Implications

- 5.1 The report has been produced to provide Members with details how officers are delivering the “People” themed objective of “Keeping Residents Safe and Happy” in the 2016-21 draft Corporate Plan and in particular the aim to “Use existing tools and powers to take appropriate crime enforcement action”.

6. Community Implications

- 6.1 Beneficial. Proportionate regulation is an important feature of ensuring community cohesion and economic growth.

7. Conclusion

- 7.1 That Members agree that officers are using tools and powers to take appropriate enforcement action.

Figure 1 - Requests for Enforcement Action

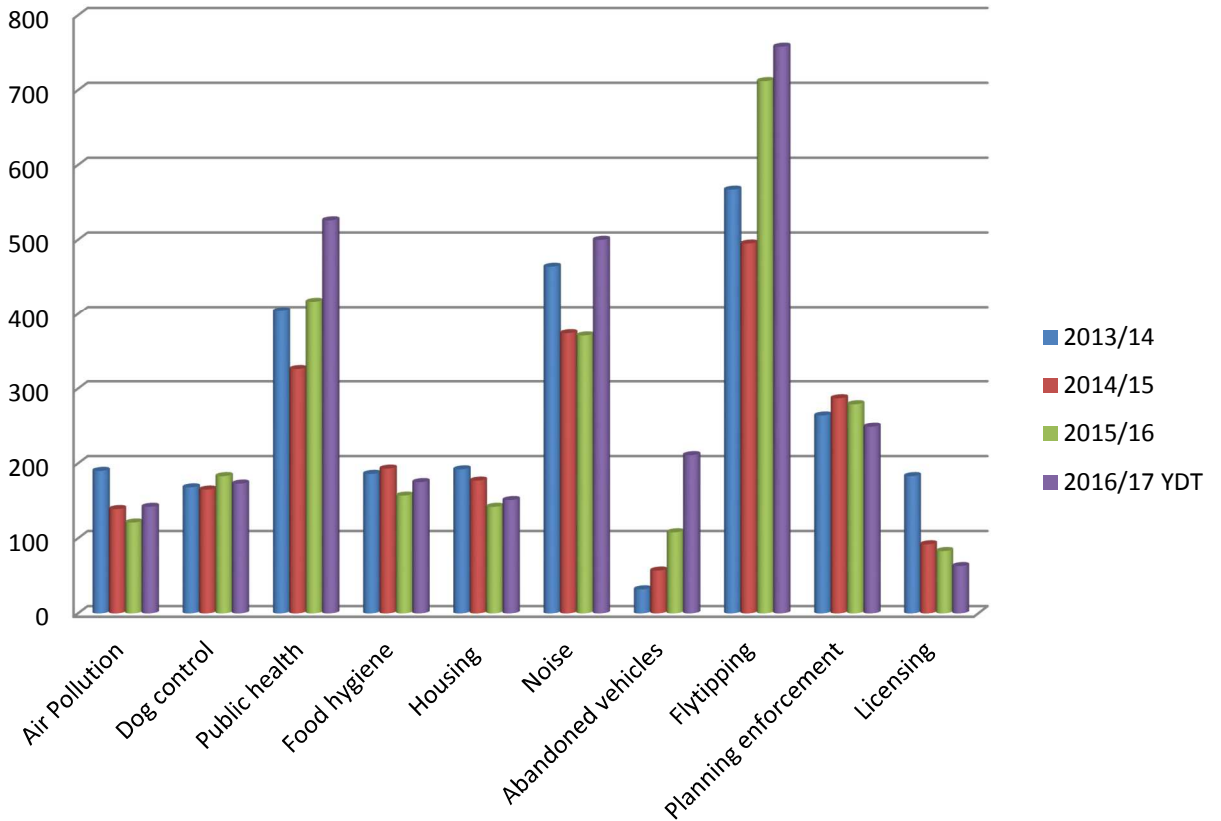


Figure 2 - Proactive Inspections of Businesses

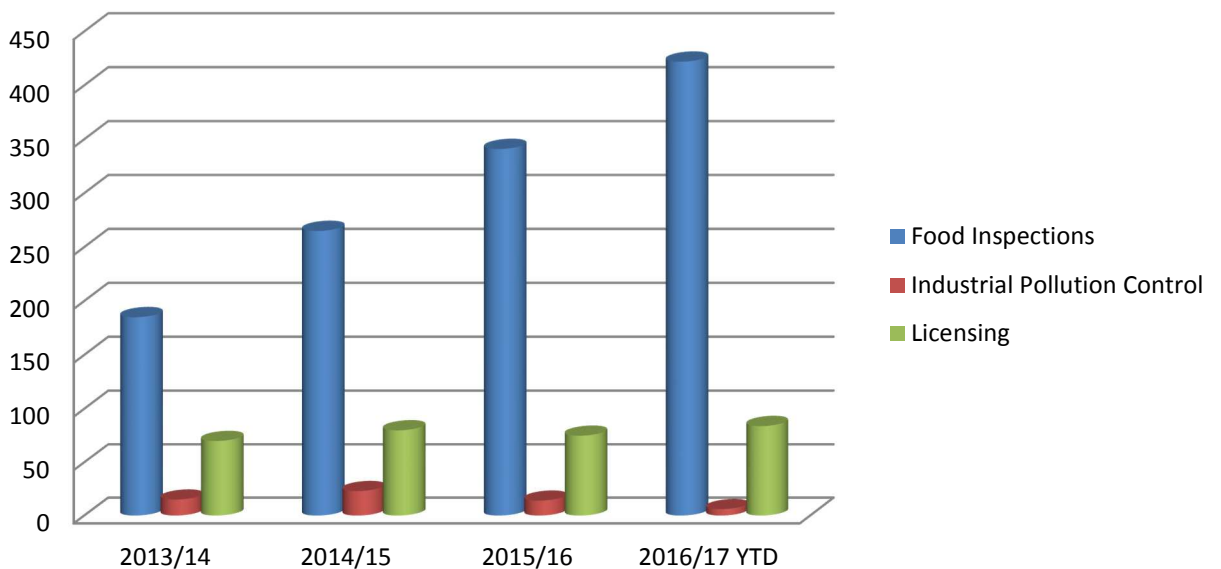


Figure 3 - Enforcement Notices Served

