

REPORT TO:	ENVIRONMENTAL & DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 10a
DATE OF MEETING:	31st JANUARY, 2013	CATEGORY: RECOMMENDED
REPORT FROM:	DIRECTOR OF OPERATIONS	OPEN PARAGRAPH NO:
MEMBERS' CONTACT POINT:	MARK ALFLAT EXTENSION 5712 mark.alflat@south-derbys.gov.uk	DOC: u:\pmw\commserv\committees\environ mental & development services\e & ds committee 31.1.13 - prosecution.doc
SUBJECT:	PROSECUTION OF SDDC DUE TO VEHICLE DEFECTS	REF: MA/PMW
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE: EDS13

1.0 Reason for Urgency

- 1.1 Members are required to be notified of proceedings taken against the Council and remedial measures implemented to prevent a recurrence.

2.0 Recommendations

- 2.1 That Members note the report and the remedial improvements that have taken place since the vehicle defects came to light.

3.0 Purpose of Report

- 3.1 To explain to Members the outcome of a prosecution against South Derbyshire District Council by the Vehicle and Operator Services Agency (VOSA) in Walsall Magistrates Court on the 21st January, 2013.

4.0 Detail

- 4.1 On the 21st June, 2012 a Council vehicle was stopped by VOSA for a routine roadside check of the vehicles condition. On examination the vehicle was found to have three defective tyres in that the wheels did not have a depth of least 1.6mm throughout a continuous band of at least three quarters of the tyre. In addition, on one of the vehicles front wheels three of the six wheel nuts fitted were loose. Mr. Steve Carter, Interim Direct Services Manager supplied by Northgate, was interviewed under caution on 12th October, 2012. Following that interview summonses were issued at Walsall Magistrates Court to answer to the offences of three defective tyres and loose wheel nuts on a wheel.

- 4.2 On the 21st January, 2013 the Council was represented by an external Solicitor. Also in attendance was Mark Alflat, Director of Operations and Adrian Lowery, Direct

Services Manager. The driver of the vehicle was also summoned to appear and charged with the same offences.

The Director of Operations took the view that although the driver should have checked the vehicle before it was taken out, the systems in existence in June 2012 were not robust enough to place the blame on the driver. The Council therefore requested to VOSA that the charge against the driver be withdrawn and they agreed to do this.

4.3 Having pleaded guilty, the Council's Solicitor informed the Court of measures taken since the incident to reassure the Court that the offence was a one-off and would not take place again.

4.4 The improvements issued since the event are:-

- All wheel stubs and nuts have been replaced on all vehicles
- The old style driver defect report exception sheets have been abandoned and replaced with a new daily check and defect reporting system, including nil defect reporting
- A wall planner inspection servicing regime has now been introduced and a computerised system is planned
- The checking of wheel torque has been added to the servicing regime
- Servicing levels have been increased to a minimum two full safety inspections per year for all vehicles.
- High mileage/heavy use vehicles will have bespoke servicing regimes of between two and six safety inspections per year.
- The Director of Operations sent a Health & Safety memo to all drivers and staff involved with vehicles clearly outlining their responsibilities and the consequences of failing to carry them out.
- Random audits of vehicle inspections and the daily check/defect reporting system will take place, to ensure it becomes embedded
- Tool box talks have been given and will continue to be delivered to relevant employees
- A comprehensive 'Driving at Work' Policy will be developed and implemented.

4.5 The District Judge in attendance praised the Council for attending the Court in person and for not laying blame solely on the driver. The level of fine available to the Judge was £2,500 per offence for each defective tyre and £5,000 for the loose wheel nuts.

4.6 The Judge fined the Council 10% of the maximum available and gave the Council credit for the mitigation measures introduced since the incident came to light. He also noted that it was the first time the Council had been prosecuted for such an offence.

5.0 Financial Implications

5.1 The cost to the Council in fines was £1,250 (out of a maximum available of £12,500), £325 prosecution costs, £15 victim surcharge. The Council will also be charged for representation by its own external Solicitor.

6.0 Corporate Implications

6.1 The Council takes its legal responsibilities seriously and on notification of defects in existing inspection regimes instigated a full and comprehensive improvement plan which was praised by the District Judge.

7.0 Conclusion

7.1 It is clear that systems for vehicle checking at the Depot were insufficient and the new Direct Services Manager has implemented a new regime for ensuring that this incident will not be repeated.