
REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE	AGENDA ITEM: 10
DATE OF MEETING:	2nd MARCH 2017	CATEGORY: RECOMMENDED
REPORT FROM:	DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES	EXEMPT PARAGRAPH NO: Not Exempt
MEMBERS' CONTACT POINT:	MATT HOLFORD – ENVIRONMENTAL HEALTH MANAGER	DOC:
SUBJECT:	QUARTERLY 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 regulatory services.

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 quarter and provides a comparison against historical levels of regulatory action.

Demands for services

- 3.5 The demands for our services this year is illustrated by Figure 1 in the report appendix.
- 3.6 In the first 9 months of this financial year there has been a significant increase in demand for a number of regulatory investigation services. Overall there has been a 20% increase in requests for service compared to the same period last year.
- 3.7 Complaints about public health related matters have been dominated by complaints about waste on private land, overgrown gardens and concerns about filthy and verminous private land. The underlying cause of the increase is not entirely clear, however a significant contributing factor appears to be an increase in social isolation of vulnerable residents, some of whom are requiring intensive multi-agency interventions.
- 3.8 Complaints about abandoned vehicles are substantially greater than 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.
- 3.9 Noise complaints are almost 30% higher than in previous years. 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

- 3.10 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.

Legal Interventions

- 3.11 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.
- 3.12 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

- 3.13 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.
- 3.14 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 Q1-3
Total Fixed Penalty Notices	3	6	34	59
Dog offences	0	1	23	8
Fly tipping & waste offences	1	1	0	3
Litter	2	4	8	38
Community Protection Notice / PSPO breach	0	0	3	10
Formal Cautions	0	3	3	1
Prosecutions	0	0	3	1

- 3.15 Overall the Council is making significantly greater use of fixed penalty notices for low level offences than has previously been the case.
- 3.16 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.
- 3.17 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. 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.
- 3.18 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.
- 3.19 In the year to date, the Director of Housing and Environmental Services has approved two recommendations by his officers to take prosecution proceedings and prosecution files have been submitted to the Legal and Democratic Services Manager.

Cases of Particular Note

- National figures show that out of 360 councils across England, Wales and Northern Ireland, SDDC is ranked number one when it comes to food hygiene. 99 per cent of restaurants and cafes in the District are rated 'good' or 'very good'.
- As a result of investigations into fly tipping incidents, we have obtained strong leads in relation to the identify of two possible 'man in a van' offenders. Investigations will continue.
- Following the declaration of the first Public Spaces Protection Order in Swadlincote Town Centre in September 2016, the Police are compiling a prosecution file for the first prosecution for breaches of the Order.
- The Council served its first legal notice on a local resident requiring them to microchip their dog under new laws introduced in 2016.

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.

Quarterly Regulatory Report for Environment and Development Service Committee – Appendix

Figure 1 - Requests for Enforcement Action

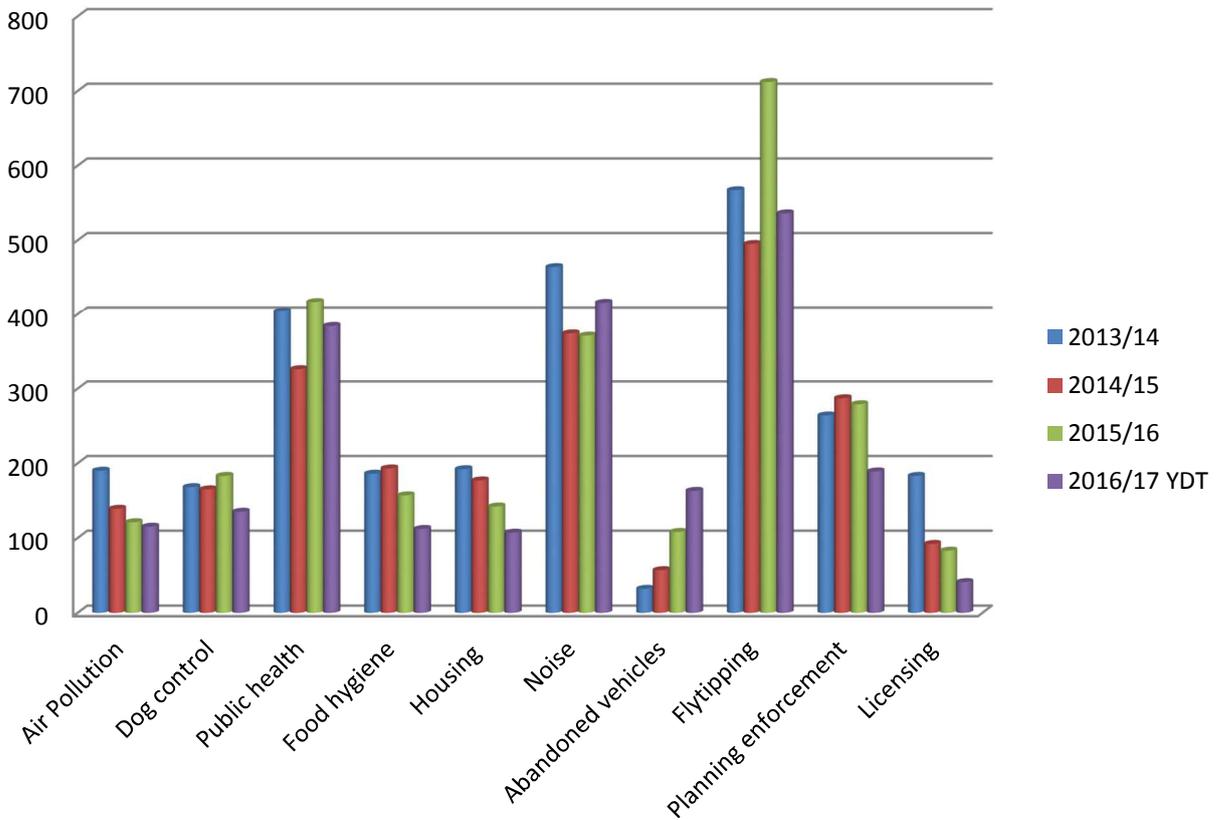


Figure 2 - Proactive Inspections of Businesses

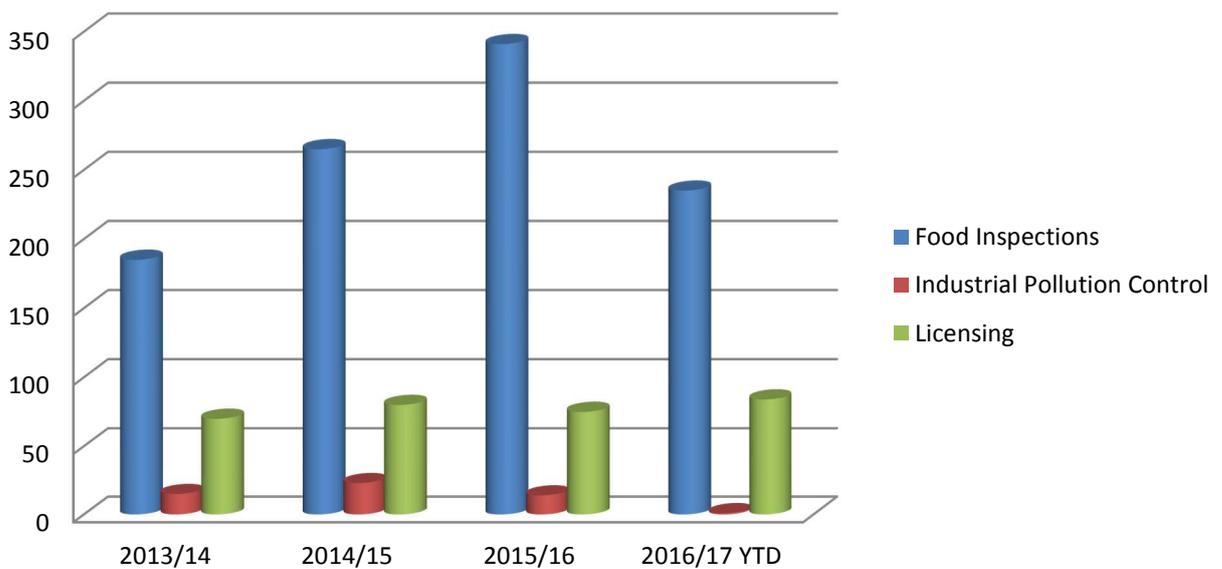


Figure 3 - Enforcement Notices Served

