

ENFORCEMENT POLICY REPORT – Overview & Scrutiny January 2010

Name of Service Area:

Place Directorate – Communities Team

Enforcement Services delivered:

Environmental protection including dealing with:-

- Residential and business waste
- Abandoned vehicles
- Litter
- Graffiti
- Dog fouling
- Land and properties detrimental to the amenity.

In addition the Communities Team co-ordinate the delivery of the Dog Warden and Pest Control Service by outside agencies.

Overall purpose and aim of the service

- To secure a safe and healthy environment for everyone living, working or visiting Rossendale.
- To ensure that preventative or remedial action is taken to protect public health and the environment by securing compliance with regulatory systems. Whilst the Department seeks to ensure full voluntary compliance with relevant legislative requirements wherever possible, it will not hesitate to use its enforcement powers where necessary. To follow fair and consistent enforcement of practices and procedures
- To ensure that all enforcement action occurs in strict accordance with the Police and Criminal Evidence Act 1984 (as amended), Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, and other relevant legislation and guidance.

Primary legislation enforced by the service

- Clean Neighbourhoods and Environment Act 2005
- Environmental Protection Act 1990
- Environment Act 1995
- Prevention of Damage by Pests Act 1949
- Public Health Act 1936
- Refuse Disposal (Amenity) Act 1978
- Town and Country Planning Act 1990
- Anti-social Behaviour Act 2003
- Local Government (Miscellaneous Provisions Act) 1976
- Local Government (Miscellaneous Provisions Act) 1982
- Dogs (Fouling of Land Act) 1996
- The Highways Act 1980
- The Criminal Damage Act 1971

Links to national regulatory bodies

The Communities Team have links with Environment Agency and work with the Agency where there are shared enforcement roles such as for large scale fly tipping or illegal waste transfer sites. The Team also provide assistance and co-operation with any matters which are solely the Agency's jurisdiction such as illegal waste transfer stations or pollution.

The team follow DEFRA guidance in carrying out enforcement duties.

The team also manage Rossendale Markets and where contravention issues in relation to Trading Standards arise, the Team ensure Trading Standards are informed and provide assistance and co-operation.

The Team work closely with regional regulatory bodies such as Lancashire Fire and Rescue Service and Lancashire Constabulary. Information relating to contraventions passes both ways between agencies for regulatory action to be taken.

Links to local or regional liaison and best practice groups

The Communities Team are members of AGMA, a group of Greater Manchester Authorities who meet to share best practice information around fly tipping and other waste enforcement issues.

The Communities Team are also a member of the Fly Tipping Forum which is held for stakeholders across the Northwest aimed at sharing best practice and information in relation to combating fly tipping.

In addition the team attend the Lancashire Recycling Forum (in conjunction with Rossendale BC's Operations Dept to discuss education and enforcement best practice in relation to recycling.

How does the service meet the requirements of the LBRO document "Applying the Regulators' Compliance Code and Enforcement Concordat" in respect to:-

a) Economic progress

Preventative action is taken in an effort to prevent offences occurring and to secure voluntary compliance. This is done in a variety of ways.

Personal visits by area officers and letters warning of formal enforcement action are carried out / issued as a matter of course in order that compliance can be secured without the need for regulatory action to take place.

Where particular issues are identified or projects are ongoing, a press campaign is organised - for example with the introduction of fixed penalty notices for litter and dog fouling, a press release, photo, and campaign tagline ('bee aware, don't get stung with a fine – with officers in bee outfits).

The effect of the above action is reviewed in two ways:-

1. In individual cases the effect of a personal visit or letter is reviewed against the environmental issue to determine if it has been effective, and further action will be taken if not.
2. In relation to press campaigns / press releases, their effectiveness is monitored against figures for environmental enforcement, e.g. number of fixed penalty notices issued, number of notices served, or service requests, particularly where the press campaign focuses on a particular issue.

b) Risk assessment

Enforcement action, whether that be verbal or written warnings, statutory notices, formal cautions or prosecution, is based upon an assessment of risk to public health, health and safety and welfare of the people of Rossendale.

Each individual case is assessed as to the appropriate method of dealing with it, both prior to and during the course of carrying out regulatory activity.

Targeted programmes of enforcement activity are carried out having regard to data collected in relation to number of complaints, action taken, costs involved and likely outcomes, in order that resources are targeted appropriately.

c) Advice and guidance

Advice and guidance is both followed and issued by the team in carrying out regulatory services.

Regulatory action takes into account guidance from DEFRA in relation to Environmental offences, and the guidance set out in "The Code for Crown Prosecutors" (November 2004) published by the Crown Prosecution Service.

Advice and guidance is issued to businesses in an effort to prevent enforcement action. This includes advice regarding their duty of care in relation to disposal of waste and is usually done in the form of letters and information leaflets.

Residents receive advice and guidance about recycling, litter, dog fouling and disposal of waste in various ways, from press releases and officer press articles (such as in the Whitworth Valley News), to community events with leaflets and verbal advice.

Information and advice about some regulatory activity (such as business waste and flytipping) is also displayed on the council's website and can be accessed by businesses and residents locally and nationally.

d) Inspection and other visits

The team carry out visits to properties and pieces of land in order to deal with environmental protection.

The majority of visits to businesses or households will be as a result of a request for service from the occupier or other person. Any other visits are carried out as part of an organised project, which will include an assessment of the number of complaints

relating to a particular geographical or work area, consideration of the appropriate households or businesses which should be involved, and a procedure developed from advice to appropriate enforcement.

e) Information requirements

Enforcement information is shared on both a national and local basis.

Nationally information regarding the number of fly tipping incidents and action taken is collected and shared through the flycapture database which is updated monthly.

Information regarding antisocial behaviour which includes graffiti, litter and abandoned vehicles is also collected and shared nationally at the same frequency.

On a more informal basis information regarding enforcement is shared through local meeting groups such as AGMA (Association of Greater Manchester Authorities) which includes local authorities and the environment agency sharing information and best practice. This is supplemented by multi agency meetings aimed at specific issues or Rossendale generally, such as MAPS which is held at Waterfoot Police Station on a six-weekly basis, and mini-maps meetings centred around small estates or sections of the borough.

f) Compliance and enforcement actions

It is difficult to reward residents and businesses for good compliance with environmental legislation as there is such a wide range of legislation and a large proportion of the population generally comply. However, the team do give out free dog poo bags with letters sent to residents which inform of the problems and enforcement associated with dog fouling. They are also given out by officers on dog fouling patrols. This is a positive incentive to residents to pick up after their dogs.

Unless an individual case is so severe that time is of the essence, in most cases all residents and householders are given an opportunity to comply with legislation by letter or a personal visit before any formal enforcement action is taken, such as with a legal notice. Any legal notices served include an explanation of the legislation and details of the appeals procedure. They also contain the contact details for the officer serving the notice in order that they can be contacted for advice or assistance.

In terms of following the Macrory principles, it is the policy of the Communities Team that the purpose of enforcement is to secure compliance and not to penalise or obtain income for the council. This being the case in relation to litter or dog fouling offences, the offence will be explained to the person involved and they will be given the opportunity to pick up the dog foul and litter before any further action is taken. If the dog foul or litter is picked up there will be no sanction. The same applies to the majority of other enforcement matters, where letters are sent or advice given verbally regarding the offence committed and how compliance can be secured, before any action is taken, if needed.

Advice and guidance about how the council will approach certain aspects of regulatory activity is provided on the council website. However, this does not currently include full copies of policies. The Communities Team are in the process of

recruiting an officer through the future jobs fund, whose responsibilities will include updating and increasing the information available about the team and its' activities on the website to ensure that the code and concordat are complied with.

g) How are sanctions and penalties to be decided?

The decision regarding the appropriate enforcement action to be taken, is made on a case by case basis having regard to a number of factors including the type of case, severity, time for compliance given, costs and proportionality. Officers, with the support of their managers, will make these decisions. The decision will also be made with the support of the legal department when any case is particularly complex and / or may result in a prosecution.

Penalties in many cases are determined by statute with an element of flexibility for the court, where an offender is prosecuted. First time offences or low severity offences are often dealt with outside of court by the council in default of a notice being complied with e.g. clearing an accumulation of waste, and charging the offender for doing so.

The amount of fixed penalty to be charged is set at a default level nationally, and Rossendale Borough Council has set the penalty at the same level, with a discount for early payment.

h) Accountability – in relation to specific consultation and feedback – corporate systems exist for other issues.

Feedback from customers is taken account of as and when it is received, by documenting this on the flare electronic database. This is then fed into the policy making process by officers.

Currently no mechanism is in place to formally obtain and record feedback, but this will change in the future (see planned actions to improve the service).

8. Any planned actions to improve the service

- Review of current enforcement policies to ensure up to date with current legislation and working practices.
- Recruitment of officer to improve and increase the information available on the council website
- Projects which involve appropriately targeted resources to tackle flytipping / commercial waste disposal and dog fouling.
- Development and implementation of a system of customer feedback to improve customer involvement in service delivery.

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