

LEISURE AND ENVIRONMENT COMMITTEE

22 JANUARY 2019

AUTHORISATION OF OFFICERS

1.0 Purpose of the Report

- 1.1 To review and update the formal authorisation of officers dealing with enforcement matters within the Communities and Environment Directorate.
- 1.2 To authorise additional posts to carry out enforcement action, strengthening the Council's ability to take enforcement action, where appropriate, to deliver the objectives of the Council's Cleaner Safer Greener priorities.

2.0 Background

- 2.1 Much of the work carried out by officers within the Communities and Environment Directorate is enforcement based and the staff involved in this work need to have the power to carry out their functions expressly given to them by the local authority. They are required to be formally authorised to carry out their functions and while carrying out that function they have the ability to use specific powers contained within the statutes. This may be providing a right of entry into premises/ or giving specific powers to take samples, take photographs, etc. or in some pieces of legislation to serve enforcement notices and/or to bring legal proceedings.
- 2.2 The introduction of Community Protection Officers has strengthened the Councils resilience to carry to tackle ASB and Environmental Crime. These posts require formal authorisation to carry out the Enforcement Functions involved in this role.
- 2.3 As a new role staff from the Parks and Amenities Business unit is present within areas of open space on a daily basis and often can witness potential offences and therefore giving these staff the ability to issue fixed penalty notices will enhance the enforcement capability across the Council.
- 2.4 If an officer is not authorised any action taken by way of enforcement is void as it has no legal standing.

3.0 Introduction

- 3.1 The formal authorisation of staff within the Community and Environment Directorate requires regular updating to take account of changes to and the introduction of new legislation and to support emerging Council Priorities. It is also necessary to ensure that new posts are duly authorised.
- 3.2 It is considered appropriate to formalise the authorisation of officers to ensure that any investigation and subsequent enforcement action is carried out by duly authorised officers acting on behalf of Newark and Sherwood District Council. The Officers to be Authorised and the relevant legislation is set out below.

4.0 Proposals

4.1 It is proposed that staff within the Directorate of Communities and Environment Directorate, Public Protection Business Unit employed within the in the posts as set out below be authorised to act on behalf of the Newark and Sherwood District Council to exercise the relevant powers contained within the legislation set out in Paragraph 4.3; further that any staff subsequently employed in these or equivalent posts to exercise the provisions of the legislation shown below are also authorised.

4.2 The posts to be duly authorised are:

Business Manager
Assistant Business Manager
Senior Environmental Health Officer
Environmental Health Officer
Senior Food Safety Officer
Environmental Health Technical Officer
Community Protection Officer
Licensing Enforcement Officer
Senior Licensing Officer

4.3 The above-mentioned staff to be authorised to carry out all actions on behalf of Newark and Sherwood District Council as detailed under the following Acts according to their individual training and experience which will be assessed by the Business Manager with reference to guidance and industry best practice. Each officer will receive in writing the scope of their authorisation following the above assessment. All authority given to any Act below shall include any amendments to ten Acts and any regulations issued in accordance with the provisions of the Act.

Town Police Clauses Act 1847
Public Health Acts Amendment Act 1907
Police, Factories and (Miscellaneous Provisions Act 1916
Public Health Act 1936
House to House Collections Act 1939
Prevention of Damage by Pests Act 1949
Caravan Sites and Control of Development Act 1960 (as amended by the Mobile Homes Act 2013).
Public Health Act 1961
European Communities Act 1972
Control of Pollution Act 1974
Health and Safety at Work (etc) Act 1974
Local Government (Miscellaneous Provisions) Act 1976
Dangerous Wild Animals Act 1976
Refuse Disposal (Amenity) Act 1978
Zoo Licensing Act 1981
Local Government (Miscellaneous Provisions) Act 1982 as amended by Part 8 of the Local Government Act 2003
Public Health (Control of Diseases) Act 1984
Building Act 1984
Food and Environment Protection Act 1985

Housing Act 1985
Nottinghamshire County Council Act 1985
Town & Country Planning Act 1990
Food Safety Act 1990
Environmental Protection Act 1990 (as amended by the Noise and Statutory Nuisance Act 1993)
Dangerous Dogs Act 1991
Water Industries Act 1991
Clean Air Act 1993
Noise and Statutory Nuisance Act 1993
Sunday Trading Act 1994
Environment Act 1995
Noise Act 1996 (as amended by the Clean Neighbourhoods & Environment Act 2005)
Antisocial Behaviour Act 2003
Licensing Act 2003
Housing Act 2004
Clean Neighbourhoods & Environment Act 2005
Gambling Act 2005
Animal Welfare Act 2006
Health Act 2006
Control of Pollution Act 1989 (as amended)
Sunbeds (Regulation) Act 2010
Scrap Metal Dealers Act 2013
Anti-social Behaviour, Crime and Policing Act 2014

4.4 The Parks and Open Spaces Business manager has also requested that the Rangers within the Parks and Open Spaces Business Unit are authorised to investigate offences relating to the breach of a Public Space Protection Order including the service of Fixed Penalty Notices. It is proposed that in addition to the above mentioned posts the posts shown below are authorised under a limited number of Acts to investigate and issue FPN's.

4.5 It is proposed that the following staff in the following posts from the Parks and Amenities Business Unit be authorised and that any staff subsequently employed in these posts to exercise the provisions of the legislation shown below are also authorised.

Business Manager Parks and Amenities
Grounds Maintenance Manager
Grounds Maintenance Chargehand
Countryside Ranger
Sconce & Devon Park Ranger

4.6 The above-mentioned staff to be authorised to carry out all actions on behalf of Newark and Sherwood District Council as detailed under the following Acts according to their individual training and experience which will be assessed by the Business Manager with reference to guidance and industry best practice. Each officer will receive in writing the scope of their authorisation following the above assessment. All authority given to any Act below shall include any amendments to the Acts and any regulations issued in accordance with the provisions of the Act. Be authorised to investigate, enforce and issue Fixed Penalty Notices for offences under

The Anti-social Behaviour, Crime and Policing Act 2014
Clean Neighbourhoods & Environment Act 2005
The Environmental Protection Act 1990.

- 4.7 It is proposed that the following staff in the following posts from the Transport and Waste Business Unit be authorised and that any staff subsequently employed in these posts to exercise the provisions of the legislation shown below are also authorised.

Business Manager Transport and Waste
Assistant Manager Transport and Waste
Waste Management Inspectors

- 4.8 The above-mentioned staff to be authorised to carry out all actions on behalf of Newark and Sherwood District Council as detailed under the following Acts according to their individual training and experience which will be assessed by the Business Manager with reference to guidance and industry best practice. Each officer will receive in writing the scope of their authorisation following the above assessment. All authority given to any Act below shall include any amendments to the Acts and any regulations issued in accordance with the provisions of the Act. Be authorised to investigate, enforce and issue, where appropriate, Fixed Penalty Notices for offences under

Environment Act 1995
Control of Pollution Act 1989 (as amended)
Anti-social Behaviour, Crime and Policing Act 2014
Environmental Protection Act 1990
Town & Country Planning Act 1990
Refuse Disposal (Amenity) Act 1978
Control of Pollution Act 1974
Antisocial Behaviour Act 2003
Clean Neighbourhoods & Environment Act 2005
Controlled Waste Regulations

- 4.9 It is further proposed that all the Officers authorised above be indemnified against the whole of any damage and costs for expenses that may be involved, if the authority is satisfied that the Officers' actions were reasonable for a professional person in that field of work and that the officer believed that the act complained of was within his or her power and their duty as an officer required or entitled them to do it and provided the officer was not wilfully acting against instructions

5.0 Equalities Implications

- 5.1 All enforcement is taken with reference to the Council's Corporate Enforcement Policy.

6.0 Financial Comments

- 6.1 No financial implications relating to this report

7.0 RECOMMENDATIONS that:

- (a) the Officers listed in Paragraph 4.2, 4.5 and 4.7 are authorised to act on behalf of the council under the legislation and subsequent revisions to that legislation, listed in paragraph 4.3, 4.6 and 4.8; and**
- (b) authorised Officers are indemnified as set out in paragraph 4.9**

Reason for recommendation

To ensure that all investigative and enforcement powers are undertaken by duly authorised Officers of the council and that reasonable actions are indemnified by the Council.

Background papers

Nil

For further information please contact Alan Batty Business Manager – Environmental Health and Licensing Business on 655467.

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