

REPORT TITLE Environmental Protection Act 1990 –
Mr Scott Houghton Case ref APPu/003901 - Outcome of prosecution
proceeding's on 3rd October 2016

Submitted by: Head of Environmental Health Services

Portfolio: Operational

Ward(s) affected: Wolstanton

Purpose of the Report

To inform committee of the outcome of prosecution proceedings against Mr Scott Houghton under the Environmental Protection Act 1990 for failing to comply with a noise abatement notice ref U/003901 on seven occasions between 31st May 2016 and 23rd July 2016.

Recommendations

To receive the report

Reasons

The Council has a statutory duty to investigate noise complaints under the Environmental Protection Act 1990. A formal statutory noise abatement notice has been served and prosecution proceedings have been taken in the magistrates' following a failure to comply with the legal notice without reasonable excuse.

1. Background

- 1.1 The Committee last received a report on the 20th September 2016 concerning the circumstances behind a prosecution proceedings to be brought against Mr Scott Houghton, a resident of Hartington Street Wolstanton for failing to comply with a noise abatement notice ref U/003901 between 31st May 2016 and 23rd July 2016 contrary to section 80(4) of the Environmental Protection Act 1990 by playing excessively loud amplified music
- 1.2 The case was heard in Newcastle under Lyme Magistrates' court on the 3rd October 2016. Mr Houghton pleaded guilty to seven offences of failing to comply with a noise abatement notice, contrary to section 80(4) of the Environmental Protection Act 1990
- 1.3 The Magistrates' took the guilty plea into account and imposed a fine of £200 for the first offence, with no fine for the remaining six offences, imposed a Victim Surcharge of £30 and ordered payment of the Councils costs in bringing the action of £1403.02 which also included £366.86 costs incurred in seizing noise making equipment from Mr Houghton's address. In total Mr Houghton has been required to pay £1633.02 and this is to be paid at a rate of £12.50 per week.
- 1.4 The Court also ordered that the noise making articles seized by the Council in August 2016, namely: 1 x flat screen TV and sound bar, 1 x CRT TV and 1 x hi-fi unit and speakers be returned into his possession. These items were subsequently returned following payment of the £366.86 cost incurred by the Council in seizing the items.

1.5 Details of this case are to feature in an article in the Reporter. In the meantime the noise abatement notice remains in force and any future breaches will be investigated and action taken in line with established policies and procedures.

2. Issues

2.1 The current council scheme of delegation requires that prosecution proceedings brought under Part III of the Environmental Protection Act 1990 are approved by the Public Protection Committee.

3. Options Considered

3.1 The action taken is in line with the council's adopted procedures.

4. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

4.1 The report relates to the adoption of a consistent and effective enforcement which contribute to the following:

1. A clean, safe and sustainable borough
2. The negative impacts that the Council, residents and local businesses have on the environment will have reduced.
3. A healthy and active community
4. Fair, proportionate and consistent enforcement creates an environment for prevention, maintenance or improvement in health and wellbeing.

5. Legal and Statutory Implications

5.1 The Council has legal powers to undertake the action subject of this report and the authority to proceed is in line with the Council's constitution.

5.2 The Council's Enforcement Policy 2014-17, details that a graduated and proportionate approach to enforcement will be undertaken.

5.3 It also required that due regard to the public interest test is made in relation to enforcement action undertaken. It is considered that in this case the public interest test is satisfied for the proposed course of action given the ongoing situation.

6. Financial and Resource Implications

6.1 The legal costs in taking this action have been recognised by the Court and a full costs award has been made.

7. Major Risks

7.1 None identified.