



NORTHAMPTON
BOROUGH COUNCIL

Name of Committee
Council 27 March 2006

Item No.

Report of Councillor J Lill
Directorate: Customer Services and
Delivery

Author/Contact Officer: S D Elsey,
Environmental Health Manager
Telephone:01604 837508 email
sdelsey@northampton.gov.uk

STATUTE AUTHORISATIONS

Purpose of Report

This report has been endorsed by Cabinet on the 6 March 2006 and is referred to Council for final approval

The purpose of this report is to update and extend the existing procedure for authorising individual members of staff within Environmental Health to carry out enforcement functions described by statute.

Recommendations

Cabinet endorses the following recommendations and refers the report to Council for decision with a view to amending the Council's Constitution in respect of the Proper Officer appointments in recommendation 3 below:

It is recommended that:

1. The Environmental Health Manager, Development and Building Control Manager be authorised to approve individual authorisations for members of Northampton Borough Council staff involved with the enforcement of environmental planning and building related legislation. That the authority to authorise staff be extended for the Environmental Health Manager to include those within other divisions of NBC and Parish Councils that may be part of an enforcement matrix involved with environmental related enforcements.
2. The register of authorisation is maintained by the respective officers of those staff that are deemed to have the relevant competencies and follow the prescribed processes for the application of the duties within each of the service.
3. That the Environmental Health Manger be appointed as Proper Officer for the purpose of Public health (Control of Diseases) Act 1984, Public Health (Control of Diseases) Regulations 1988 and Section 47 of the National Assistance Act 1948.

4. That for the purposes of Section 40 of the Anti Social Behaviour Act 2003 the Power of Closure (in cases of environmental related nuisance) be delegated from the Chief Officer of the Council to the Environmental Health Manager.

Summary and Links to Corporate Plan

The report updates and extends the method of Authorising Enforcement officers within the Council (and its partners in limited circumstances) that has been in use since 1995.

This method enables a flexible approach to ensuring appointed officers are able to carry out their enforcement duties in a legal and robust manner in order for their activities to contribute to the fulfilment of the Council's Corporate Plan. These activities particularly affect and improve the cleanliness of the town, protect the environment and ensure citizens benefit from an improving quality of life.

The report also ensure that the Council correctly appoints Proper Officer functions to fulfil its obligations to protect individuals and the general public from the spread of communicable diseases.

Arrangements are also required to be put in place, to ensure new enforcement tools for the control of public nuisances, primarily noise, from Licensed premises can be dealt with as a matter of urgency in appropriate cases.

Background

Authorising Officers

Environmental Health and Planning and Building Control are responsible for enforcement of a multitude of legislation, the majority of which are listed in Appendix 1 to this report.

Some service sections have a wide remit of responsibilities others have a narrow specific focus. Each Officer would have a specific list of legislation under which he is authorised to act.

Members of staff usually have a particular area of expertise, however, it is not uncommon for officers to assist others in new areas of work. For this reason and also to cover occasions where members of staff join or leave the relevant divisions, it is important that every officer is properly authorised to undertake the various functions prescribed by a particular act. It is also vital that officers are empowered, where applicable, to enter and inspect premises. Each officer is required by law to carry an authorisation warrant card, which must specify the statutes under which he or she is entitled to act. Without the card, an officer has no power to carry out his or her responsibilities. Similarly without a specific authorisation under a particular Act an officer has no power to enforce that Act.

Within the council the Environmental Health Manager and Planning and Building Control Manager are primarily aware of responsibilities of their staff and 'who is doing what' hence it is recommended that the power to authorise particular members of staff is delegated to

these officers. The consequences of agreeing to this suggestion will be that every officer carrying out specific tasks will be equally empowered, for example an inspection of premises under the Food Safety Act where it is necessary to have of Health and Safety powers also. Furthermore since most authorisations are required by law to be in writing it will be necessary for the Environmental Health Manager and the Planning and Building Control Manager to maintain a register of authorisations.

Where staff of other Divisions such as Street Scene and those employed by Parish Councils use enforcement powers occasionally, it will be those specified within the Environmental Health Division's remit. The decision making process prescribed within Environmental Health's process documentation will be followed and monitored by the Environmental Health Manager and Team Leaders to ensure consistency and robust legal application.

Proper Officer functions in Environmental Health

'Proper Officer' is a term widely used in local government and is defined in Section 270(3) of the Local Government Act 1972) as 'an officer appointed for that purpose by that body'. That is to say, a person (who need not be an officer of the council) who exercises certain powers and duties of the council, in the name of the council but without the need to have those actions specifically approved by the council. It is the correct appointment as proper officer that gives that person the power, and once that appointment is made, no further approval of their actions is required.

The most widely used powers of the Proper Officer within Environmental Health is exclusion under Section 20 of the Public Health Control of Diseases 1984 Act. This permits the Proper Officer of any district council to request any person to discontinue work 'with a view to preventing the spread of' a notifiable disease. As it is only a request, there is no sanction for non-compliance, but there is a requirement for the district council to pay compensation to a person who accedes to the request.

Other powers, that are rarely used include the temporary removal of occupants from a house where there is a case of infectious disease and excluding children from schools and places of entertainment.

Licensed premises and Anti Social Behaviour Act 2003

Section 40 and 41 of the above act provides that if the noise from any licensed premises is causing a public nuisance, an authorised Environmental Health Officer has the power to issue a closure order in respect of it for up to 20 hours.

If after receiving closure order the premises remain open, the person responsible may upon summary convictions receive a fine of up to £20000 or imprisonment for a term not exceeding 3 months or both. This compliments Police powers under section 160 of the act to close premises.

Under this provision it will be for the Chief Executive of the local authority to delegate his/her powers to Environmental Health Officers within the local authority.

Financial Implications

There are no financial implications arising from this report.

Social Impact

The Services using these legislative provisions have a major impact with residence, businesses and visitors to Northampton and it is the legal duty of the Council to ensure such provisions are fully utilised.

Conclusions

This is an update of the premises arrangements to take into account the Council's restrictive changes in legislative tasks and the need to work closer with partners to achieve the Council's corporate objectives and priorities.

Consultees (Internal and External)

Development and Building Control Manager, Solicitor to the Council, Street Scene Manager.

Background Papers

Environmental Services Committee 6 June 1995 report of Statute Authorisations – Environmental Health Section and Health and Environmental Health Housing Services Section.

Environmental Health

Animal Boarding Establishments Act 1963	Health and Safety at Work etc Act 1974
Anti Social Behavioural Act 2003 Parts 2,6 & 9	Health Services and Public Health Act 1968
Breeding of Dogs Act 1973	Housing Act 1985, 1988, 1996, 2004
Breeding of Dogs Act 1991	Licensing Act 2003
Breeding and Sale of Dogs Act 1999	Local Government Act 1972
Building Act 1984 Parts III and IV	Local Government and Housing Act 1989
Caravan Sites Act 1968	Dogs (Fouling of land) Act 1996
Caravan Sites and Control of Development Act 1960	Local Government (Miscellaneous Provisions) Act 1976
Children and Young Persons Act 1933	Local Government (Miscellaneous Provisions) Act 1982
Cinemas Act 1985	National Assistance Act 1948
Clean Air Act 1993	National Assistance (Amendment) Act 1951
Clean Neighbourhoods and Environment Act 2005	Noise and Statutory Nuisance Act 1993
Control of Pollution Act 1974	Offices, Shops and Railways Premises Act 1963
Criminal Procedure & Investigation Act 1996	Performing Animals (Regulation) Act 1925
Criminal Justice and Public Order Act 1994	Pesticides (Fees and Enforcement Act) 1989
Dangerous Dogs Act 1991	Pet Animals Act 1951
Dangerous Wild Animals Act 1976	Pollution Prevention and Control Act 1999
Deregulation and Contracting Out Act 1994	Prevention of Damage by Pests Act 1949
Employment of Women, Young Persons and Children Act 1920	Private Place of Entertainment (Licensing) Act 1967
International Carriage of Perishable Food Stuffs act 1976	Public Health Act 1875 (Support of Sewers) Amendment Act 1883
Environment Act 1995	Public Health Act 1936, 1961
Environmental Protection Act 1990	Public Health (Reoccurring Nuisances) Act 1969
European Communities Act 1972	Public Health (Control of Disease) Act 1984
Factories Act 1961	Riding Establishments Act 1964,1970
Food Act 1984	Scrap Metal Dealers Act 1964
Food and Environmental Protection Act 1985 Part III	Sunday Trading Act 1994
Food Safety Act 1990	Vehicle (Crime) Act 2001
Guard Dogs Act 1975	Water Act 1989, 1991
	Zoo Licensing Act 1981

Planning and Building Control

Town and Country Planning Act, 1990 (as amended by the Planning and Compensation Act 1991)
 Planning (Listed Building and Conservation Areas) Act 1990
 Town and Country Planning Act 1990
 Anti-social Behaviour Act 2003 (relating to Part 8: High Hedges)
 Building Act 1984
 Local Government (Miscellaneous Provisions) Act 1982

Note

Authorisation will also extend to all Regulations, Statutory Instruments and any consequential amendments made under the above legislation