



REPORT of DIRECTOR OF RESOURCES

**to
OVERVIEW AND SCRUTINY COMMITTEE
14 FEBRUARY 2018**

PROCEDURE FOR COMMENCING PROSECUTION

1. PURPOSE OF THE REPORT

- 1.1 To describe the process followed for commencing a prosecution so that its adequacy can be assessed as a part a wider review of enforcement procedures.

2. RECOMMENDATIONS

- 2.1 To evaluate the process and make an assessment of the adequacy of the process.

3. SUMMARY OF KEY ISSUES

- 3.1 Prior to October 2017 the Council's Enforcement Team was responsible for commencing prosecutions, planning and environmental health issues. Prosecutions relating to dog fouling, litter dropping, fly tipping and speeding on the River Blackwater were not dealt with by the Team but were passed to Legal Services. Because of the amount of legal work in other areas Legal Services was not able to process these prosecutions. Some of the less serious cases were in danger of passing the limitation period of 6 months within which they needed to be commenced.
- 3.2 In October a meeting took place with those case officers involved in prosecution cases. The conclusion was that all Council prosecutions should be passed to the Enforcement Team and not sent to Legal Services. Since then the Enforcement Team have commenced several of those prosecutions to a successful conclusion.
- 3.3 To commence a prosecution each case officer must firstly complete a Prosecution Report Pack (see annexe). It requires the following:
- a) a statement(s) setting out the evidence that proves the offence has been committed;
 - b) any necessary authorities under the Terms of Reference of the Constitution to authorise commencement of proceedings;
 - c) consideration by one of the lawyers that there is sufficient evidence and that it is in the public interest to commence proceedings;
 - d) the costs of investigation so that this can be included in any costs order if the person is convicted;

- e) listing of all information beyond the statements to facilitate a comprehensive disclosure of any information that might be prejudicial to the Council's case in accordance with statute.
- 3.4 The Prosecution Report Pack ensures standardisation in the way prosecutions are commenced and ensures that the appropriate information is provided to assess whether a prosecution should be commenced.
- 3.5 Once the prosecution is commenced and a court date obtained, the Enforcement Team request one of the in-house lawyers to attend court on behalf of the Council. Previously this was normally handled by Essex Legal Services. This means that there is now a saving to the Council.
- 3.6 It is early days in making a conclusive assessment if the new process for all prosecutions is working entirely satisfactorily. Some prosecutions are seasonal, like the River prosecutions, and so the benefits of the process can only be fully assessed once we pass into late October. However, early indicators are that those cases that were not being properly processed for prosecution are now being prosecuted.

4. CONCLUSION

- 4.1 The new post October procedure should ensure that all prosecutions are processed in a standardised and fair manner. Although it is early days to finally assess the value of the new arrangements the early signs are favourable.

5. IMPACT ON CORPORATE GOALS

- 5.1 The new procedure should ensure that all cases that merit prosecution are brought to court and that the deterrent effects of enforcement are fully maximised.

6. IMPLICATIONS

- (i) **Impact on Customers** – More effective enforcement that acts as a deterrent
- (ii) **Impact on Equalities** – None
- (iii) **Impact on Risk** – Should reduce risk of an unsuccessful prosecution and avoid prosecutable cases being commenced within the limitation period
- (iv) **Impact on Resources (financial)** – None
- (v) **Impact on Resources (human)** – None
- (vi) **Impact on the Environment** – More effective enforcement with a greater deterrent effect for environmental offences like fly-tipping

Background Papers: None

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