

TONBRIDGE & MALLING BOROUGH COUNCIL
LOCAL ENVIRONMENTAL MANAGEMENT ADVISORY BOARD

03 March 2014

Report of the Director of Central Services

Part 1- Public

Matters for Information

1 PROSECUTIONS

1.1 The following prosecutions have taken place:

1.1.1 Christopher Edwards – littering offence, section 87 Environmental Protection Act 1990

1.1.2 On 28 January 2013 an Environmental Enforcement Officer was on duty outside Tonbridge Rail Station when she witnessed a male throw a cigarette end to the ground. The offender was approached by the Officer and advised that because of the Council's zero tolerance policy towards littering a fixed penalty notice for £80 would be issued for the littering offence, but reduced to £50 if paid within 10 days. The offender identified himself as Mr Christopher Edwards of Riverhead, Sevenoaks.

1.1.3 Payment was not received and, as a result proceedings for the littering offence were commenced. The matter was heard at Sevenoaks Magistrates' Court on 3 September 2013. Mr Edwards failed to attend and the case was proved in his absence. The Court recorded a conviction and imposed a fine of £135. He was further ordered to pay a contribution of £121.03 towards the Council's costs and a victim surcharge of £20.

1.2 Mr Lee Wenham – failing to produce a waste transfer note, section 34 Environmental Protection Act 1990

1.2.1 On 10 October 2012 an Environmental Enforcement Officer was on duty with a Police Constable in a marked police car carrying out waste carrier patrol duties at Hadlow Road, Tonbridge.

1.2.2 The officer noted a vehicle carrying numerous items and the police officer caused the vehicle to stop. The driver of the vehicle, who identified himself as Lee Wenham, admitted that he picked up items of waste and that he did not have any documentation. Accordingly he was issued with 2 fixed penalty notices for not having a waste transfer note and the authority to transfer waste. The fixed penalty notices were for £300 each reducing to £180 if paid within 10 days.

- 1.2.3 On 21 November 2013 the officer was on duty at the A20 Ditton and noted the same vehicle carrying waste items. The vehicle was stopped by a police officer and again Mr Wenham was unable to produce the necessary documentation
- 1.2.4 The fixed penalty notices for the offences had not been paid and, as a result proceedings for the offences were commenced. Initially the case was listed for hearing at Sevenoaks Magistrates Court on 26 February 2013 but Mr Wenham failed to attend. A warrant was issued for his arrest and eventually Mr Wenham appeared at Sevenoaks Magistrates Court on 3 September 2013..
- 1.2.5 Mr Wenham pleaded guilty to the offences and the court recorded a conviction. He advised the court that he was unemployed and in receipt of Job Seekers Allowance. The court imposed fines of £110 in respect of the 2 offences of failing to produce a waste transfer note with no separate penalty in respect of the 2 offences of failing to produce the requisite authority to transport waste documentation. He was also ordered to pay the Council's costs of £239.48 and a victim surcharge of £20.

1.3 Keith Cadwallader –littering offence, section 87 Environmental Protection Act 1990.

- 1.3.1 On 18 June 2013 an Environmental Enforcement Officer was on duty and in her vehicle travelling along the A20, London Road, Ditton, when she witnessed a male smoking a roll-up cigarette. The driver of the vehicle was observed throwing the cigarette end out of the car window.
- 1.3.2 Enquiries were made with the DVLA as to the registered keeper of the vehicle and Information was received that Mr Keith Cadwallader of Larkfield was the registered keeper.
- 1.3.3 A fixed penalty notice for £80, but reduced to £50 if paid within 10 days, was issued to Mr Cadwallader. Payment was not received and proceedings were therefore commenced for the littering offence.
- 1.3.4 The case was heard at Sevenoaks Magistrates Court on 12 November 2013. Mr Cadwallader failed to attend court and the case was proved in his absence. The court imposed a fine of £200 and ordered that he pay a contribution of £100 towards the Council's costs. He was further ordered to pay a victim surcharge of £20.

1.4 Miss Hayley Brooks –littering offence, section 87 Environmental Protection Act 1990

- 1.4.1 On 3 July 2013 an Environmental Enforcement Officer was on duty at Teapot Lane, Ditton when she witnessed a female driver of a Ford Mondeo throw a cigarette end out of the driver's window.
- 1.4.2 The officer carried out further enquiries with the DVLA as to the registered keeper of the vehicle and it was ascertained that Miss Hayley Brooks of Snodland was the keeper. A fixed penalty notice for £80, but reduced to £50 if paid within 10 days, was issued to Miss Brooks. Payment was not received and proceedings were commenced for the littering offence.
- 1.4.3 The case was heard at Sevenoaks Magistrates Court on 12 November 2013. Miss Brooks failed to attend court and the case was proved in her absence. The court imposed a fine of £200 and ordered that she pay a contribution of £100 towards the Council's costs. She was further ordered to pay a victim surcharge of £20.
- 1.5 Mr J Bellingham –littering offence, section 87 Environmental Protection Act 1990**
- 1.5.1 On 18 July 2013 a waste service inspector was travelling along the A20 London Road, Larkfield when he noticed the driver of a Ford Mondeo discard a cigarette end out of the driver's window.
- 1.5.2. Enquiries were made as to the registered keeper of the vehicle with the DVLA and it was ascertained that Mr Jason Bellingham of Rainham was the keeper. A fixed penalty notice for £80, but reduced to £50 if paid within 10 days, was issued to Mr Bellingham .Payment was not received and proceedings were commenced for the littering offence.
- 1.5.2 The case was heard at Sevenoaks Magistrates Court on 3 December 2013. Mr Bellingham failed to attend court and the case was proved in his absence. The court imposed a fine of £200 and ordered that he pay a contribution of £100 towards the Council's costs. He was further ordered to pay a victim surcharge of £20.
- 1.6 Mr Carmo West –waste transfer offences, Control of Pollution (Amendment) Act 1989 and Waste (England and Wales) Regulations 2011**
- 1.6.1 On 12 August 2013 an environmental enforcement officer was on duty at West Malling, when she noted a vehicle parked on the approach road to Manor Park, loaded with assorted metals, The driver identified himself as Mr Carmo West of West Malling.
- 1.6.2 Mr West was asked by the officer to produce his waste transfer documents,

authorising him to transfer waste and a waste transfer note, required on each occasion that waste is transferred. Mr West was unable to provide the documentation at that time and, as a result he was asked to provide the documentation within 14 days. He failed to do so and was therefore issued with 2 fixed penalty notices, each for £300, but reduced to £180 if paid within 10 days.

1.6.3 The fixed penalty notices were not paid and the matter was referred for Prosecution. Resulting in a court hearing at Sevenoaks Magistrates Court on 28 January 2014. Mr West appeared before the court and entered a plea of guilty to both charges. In mitigation he explained that he was not carrying the waste for reward but assisting his neighbours. The court recorded a conviction and he was sentenced to fines of £300 on each of the 2 offences. He was also ordered to pay a contribution of £100 towards the Council's costs and a victim surcharge of £60.

1.7 Rebecca Jones – littering offence, section 87 Environmental Protection Act 1990

1.7.1 On 25 April 2013 an employee of the Council witnessed the driver of a black Corsa depositing litter, comprising of a cellophane wrapper and silver paper, out of the driver's window. The officer reported the incident to an environmental enforcement officer and enquiries with the DVLA revealed that the keeper of the vehicle was Rebecca Jones of Eccles.

1.7.2 Ms Jones was issued with a fixed penalty notice for £80, but reduced to £50 if paid within 10 days. The fixed penalty notice remained unpaid and, as a result the matter was referred for prosecution.

1.7.3 On 28 January 2014 Ms Jones appeared at Sevenoaks Magistrates Court and entered a plea of guilty to the charge. She explained to the court that she had moved address and had intended to pay the FPN but her post had gone astray, including a letter from the Council, with details of how and when to pay. The Court decided to impose a fine of £80, a victim surcharge of £20, with no award as to costs.

2. SIMPLE CAUTIONS

2.1 Qualitex Supplies Ltd, Deacon Trading Estate, Aylesford, - offences under the Health and Safety at Work etc Act 1974

2.1.1 On 10 January 2013 an employee of the company injured his back after falling from a set of aircraft steps, whilst carrying out stock replenishment.

2.1.2. Following the investigation that ensued four offences under the health and safety legislation were identified, namely a failure by the company to protect the health and safety and welfare of their employees, failing to ensure work equipment,

namely the aircraft steps were maintained in an efficient state, in efficient working order and in good repair, a failure to ensure that the employee had received adequate training in the methods adopted when using work equipment and a failure to ensure that employees were provided with adequate health and safety training.

- 2.1.3. The company agreed to accept a simple caution, as an alternative to a prosecution and duly attended the Council's offices on 29 January 2014 to sign the certificate of simple caution.

Adrian Stanfield

Director of Central Services