

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet
2.	Date:	23 February 2011.
3.	Title:	Blue badge fraud prosecutions - Publication of offenders' details on the Council's web site.
4.	Programme Area:	Environment and Development Services.

5. Summary

This report gives details of the proposals to identify, on the Council's web site and via press releases, offenders who have been prosecuted for fraudulent use of disabled persons' blue badges.

5. Recommendations

That the Cabinet approves:-

(i) the adoption of a policy to publicise details of convictions, in relation to the fraudulent use of disabled persons' blue badges, on the Council's website and via a press release; and

(ii) that the responsibility for making a decision to publicise on a case by case basis, be delegated to the Council's Parking Services Manager.

7. Details

The Council has had significant recent success in the prosecution of people who have been found to be fraudulently using disabled persons' blue badges. In an attempt to deter such activities, it has been the normal procedure to identify perpetrators and details of convictions via press releases. Guidance from the Home Office and the Ministry of Justice encourages the publicity of such information in appropriate cases and suggests that the information could also be placed on the Council's website. However, advice from the Council's Legal Service is that approval from the appropriate Cabinet Member is required before perpetrators are named on the Council's web site.

As a public body we have to respect the rights of offenders and act proportionately. However, the government guidance suggests that as a general principle, there should be a presumption in favour of publishing outcomes of criminal cases to:

- reassure the public that the Criminal Justice System is fair and effective;
- increase public confidence in the Criminal Justice System;
- improve the effectiveness of the Criminal Justice System e.g. by encouraging witnesses to come forward;
- discourage potential offenders and reduce re-offending.

It goes on to confirm that in the vast majority of cases there is no legal impediment to publication, as Councils (and the Police) have statutory functions connected with the Criminal Justice System. It suggests in the great majority of cases the decision making process will be straight forward and front line staff should routinely take the decision to publicise information.

It is proposed that the information publicised should be limited to:

- name, date of birth and summary of address (i.e. street name & area) of the offender
- brief description of the offence
- details of the sentence

It is proposed that where people are convicted in their absence because they have failed to appear at Court, the information should still be published on the website. However, the Council will need to distinguish between those defendants who have pleaded guilty and those who have been convicted in absence because they did not attend. If they later appeal or ask for the case to be re-opened then the information would have to be removed from the website immediately until the matter was resolved.

8. Finance

N/A

9. Risks and Uncertainties

There are risks with publicity of information and there is a decision making checklist and recording pro-forma in the guidance which will be used by the delegated officer in each case to minimise the risks. The risks include:

- if there are reporting restrictions on any case (which is rare in the prosecution of adults) then the information should not be publicised,
- particular care needs to be taken where 3rd party details might be revealed (e.g. a victim or a child) - this should be rare in these types of prosecutions but the delegated officer needs to be alive to this and ensure that such information is not publicised unless it is appropriate to do so.
- it might be inappropriate to publicise information because of the offender's particular circumstances e.g. they suffer from a mental health problem or there is some reason to believe they or their families may be at risk of reprisals.
- the guidance makes it clear that if the publicity is on a website then it should normally be removed after 1 month. If there is an appeal against the conviction/sentence then the information should be removed immediately.
- it is important to include the following message, as recommended in the guidance, on the same web page, to ensure there is no unlawful use of the information by 3rd parties:

This information is made available for a limited period in order to promote the openness, transparency and accountability of the criminal justice system to the people it serves. This information is made available solely on the basis that it is for the individual use of the person who has accessed this page. The information on this page must not be stored, recorded, republished, or otherwise processed without the explicit agreement of Rotherham MBC."

10. Policy and Performance Agenda Implications

N/A

11. Background Papers and Consultation

Criminal Justice System Guidance "Publicising Sentencing outcomes".

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