

## **OVERVIEW & SCRUTINY BOARD - Meeting 25th February 2013**

### **Response to Overview & Scrutiny Topic Proposal in respect of Community Safety Team**

With regard to the evidence Mr Rowbottom has detailed (see Appendix 1 attached), the response on behalf of the Community Safety Team is as follows:-

The Community Safety Team has followed the Council's Enforcement Policy in all respects of this case. The Enforcement Policy clearly states that whilst there are 5 stages of enforcement available, Enforcement Officers have complete discretion towards what actions are taken and it is not necessary to progress through the stages, therefore there is no 'escalation process'.

The difficulties in this case have been detailed previously and as well as issuing verbal and written warnings to the business, we have also sought legal advice on the merits of pursuing formal legal action using Enforcement powers under the Clean Neighbourhood and Environment Act 2005 section 3 which relates to "Exposing Vehicles for Sale on a Road". The advice from Legal Services is that it would not be in the interests of justice or the public purse to embark on legal action in this case. Even a successful prosecution, which is by no means guaranteed, would only result in a fine for breach of notice. The court could not compel the dealership to stop what they are doing; therefore if they choose to pay a fine and continue this practice, we would be in the position of having to start the whole legal process again. The Community Safety Team has taken the advice of Legal Services which is to continue dialogue with the business and seek to negotiate a solution that ensures that there is no ongoing risk to members of the public. The area is regularly monitored and the business is spoken to any time a contravention to the Act is observed or reported. I understand that Worcestershire County Council has also chosen not to pursue formal action under the Highways Act I presume for similar reasons. Mr Rowbottom has been advised by myself and also by the Head of Customer Services, that action is being taken albeit not the action he would like to see; this was following his formal complaint to the Council regarding this matter.

I am confident that my team can evidence that we have and continue to take every action available to us to resolve this matter to the best of our ability. We have had no complaints about this issue from any other member of the public and we have had no reports from the Street Cleansing team that it has had any impact on the delivery of their duties. Obviously, we continue to monitor the situation and will seek further advice should the situation change significantly.

**Bev Houghton**  
**Community Safety Manager**  
8th January 2013

N.B. Further response from Mr Rowbottom attached at Appendix 2.