

3. APPOINTMENT OF ENFORCEMENT OFFICERS UNDER LOCAL GOVT ACT 2002: ESU STAFF

Officer responsible Environmental Services Manager	Author David Rolls, Solicitor, DDI 941-8892
--	---

The purpose of this report is to recommend that the Council appoint and warrant a further two officers of the Council's Environmental Services Unit as enforcement officers under the Local Government Act 2002 and to confer upon them and delegate to them certain powers.

APPOINTMENT OF ENFORCEMENT OFFICERS

Section 177(1) of the Local Government Act 2002 authorises local authorities to appoint persons as enforcement officers in relation to any offences against that Act and against bylaws made under that Act. Section 177(2) requires local authorities to issue written warrants to persons it appoints as enforcement officers under section 177(1). Clause 32(1) of the Seventh Schedule to the Act prohibits the Council from delegating its power to warrant such enforcement officers.

The Act confers upon enforcement officers powers to seize and impound property which is involved in the commission of an offence (sections 164 and 165), powers to enter upon land for enforcement purposes (section 172) and the power to require any person that the officer believes is committing or has committed an offence to provide certain information (section 178).

The two officers of the Council's Environmental Services Unit, named in recommendation 1 below, are responsible for detecting offences against:

- (a) The Christchurch City Animals (Other Than Dogs) Bylaw 2000;
- (b) The Christchurch City Fires Bylaw 1991;
- (c) Parts I to IV (inclusive) and clause 51 of the Christchurch City Public Places and Signs Bylaw 2003;
- (d) Section 224 of the Act (relating to water wastage);
- (e) Section 230 of the Act (relating to offences by occupiers of premises);
- (f) Section 231 of the Act (failure to comply with a notice to remove a fire hazard);
- (g) Section 232 of the Act (relating to damage to Council works or property); and
- (h) Section 238 of the Act in relation to notices issued under section 459 of the Local Government Act 1974 (these concern the construction, alteration, cleansing and repair of private drains).

Each of the abovementioned bylaws were made under the Local Government Act 1974. However, section 293(1) of the Local Government Act 2002 deems each of those bylaws to be bylaws validly made under the latter Act.

CHECKING OF UTILITY SERVICES

The officers will be responsible for checking utilities services on any land or any building in terms of section 182(1) of the Act. This is for the purpose of ascertaining whether or not water is being wasted, drainage works are being misused or any appliance or equipment associated with a local authority utility service is in a condition that makes it dangerous to life or property.

Section 182(2)(b) of the Local Government Act 2002 provides that before an enforcement officer may enter any land or building for any of the purposes specified in s182(1) the local authority must have given reasonable notice to the occupier of the land or building of the intention to exercise that power.

In the interests of efficiency it is recommended that the Council delegate to the enforcement officers it appoints under that Act the power to give such notice.

REMOVAL OF FIRE HAZARDS

The officers will also be responsible for inspecting properties for the purpose of ascertaining whether fire hazards exist on those properties in terms of section 183 of the Act and for exercising the Council's powers in relation to the removal of any such hazards. That section empowers the Council to require the occupier or owner of land to remove from that land anything which is likely to become a source of danger from fire. In the event of default the Council is authorised to carry out the work itself. For these purposes the Council will need to delegate to the officers its powers under this section together with its powers of entry on to land under section 171 (including the power to give notice of intended entry) and under section 173. This latter section provides for power of entry in emergency situations.

REMOVAL OF WORKS IN BREACH OF BYLAWS

Section 163 of the Local Government Act 2002 provides that if it is authorised by a bylaw a local authority may remove or alter a work or thing that is, or has been constructed, in breach of any bylaw.

Clause 14 of the Christchurch City General Bylaw 1990 empowers the Council to remove or alter a work or thing that is, or has been constructed, in breach of any of the Council's bylaws. Where the work or thing is situated upon private land clause 14(a) empowers the Council to serve a notice on the owner or occupier of that land requiring its removal. If the notice is not complied with then the Council may itself effect the removal at the expense of the owner or occupier. Where the work or thing is on, over, or above a road, public place, or reserve, clause 14(b) empowers the Council to remove it without notice and at the cost of the person who placed it there.

To facilitate the effective and efficient administration of the abovementioned bylaws it is recommended that the Council delegate its powers under clauses 14(a) and 14(b) of the Christchurch City General Bylaw 1990 to every person it appoints as enforcement officers in respect of those bylaws. The Council did, in 1994, delegate such powers to every bylaw inspector appointed clause 9 of the General Bylaw. It is not suggested that this earlier delegation be revoked.

GENERAL POWERS OF ENFORCEMENT

The enforcement officers should also be authorised to exercise all of the powers of enforcement officers under the Local Government Act 2002 in relation to all of the offences specified above and to carry out any other function or power of an enforcement officer under that Act. The powers of enforcement officers under the Act include the power to seize property in accordance with sections 164, 165 and 166 and the power to require any person the officer believes is committing or has committed an offence to provide certain information.

COMPLIANCE WITH DECISION MAKING REQUIREMENTS OF THE LOCAL GOVERNMENT ACT 2002

It is considered that the decisions sought from the Council in relation to this report concern matters of a minor administrative nature only. Consequently it is suggested that no specific action need be taken in respect of the requirements of sections 77 and 78 of the Local Government Act 2002.

Staff

Recommendation: That the Committee recommend that the Council:

1. Appoint and warrant as enforcement officers pursuant to Section 177 of the Local Government Act 2002 -
 - (a) Peter William Watson
 - (b) Eric James Watsonfor the purposes of -
 - (i) detecting offences against the abovementioned sections of that Act and the abovementioned bylaws;
 - (ii) checking utility services under section 182(1) of that Act -and for these purposes authorise them to exercise all of the powers of enforcement officers under that Act;
2. Delegate, pursuant to clause 7(1) of the Christchurch City General Bylaw 1990, to each of the persons named in recommendation (1) (severally) its powers under clauses 14(a) and 14(b) of that bylaw for the purpose of enforcing the Christchurch City Animals (Other Than Dogs) Bylaw 2000, Christchurch City Fires Bylaw 1991 and Parts I to IV (inclusive) and clause 51 of the Christchurch Public Places and Signs Bylaw 2003;

3. Delegate, pursuant to Clause 32(1) of the Seventh Schedule to the Local Government Act 2002, to each of the persons named in recommendation (1) (severally) -
 - (a) all of its powers under section 183; and
 - (b) all of its powers under sections 171 and 173 for the purposes of section 183; and
 - (b) its power to give notice under section 182(2)(b).

**Chairman's
Recommendation:**

That the above recommendations be adopted.