
Subject:	ENVIRONMENTAL ENFORCEMENT SERVICE DELIVERY OPTIONS
Meeting and Date:	Cabinet – 7 November 2016
Report of:	David Randall, Director of Governance
Portfolio Holder:	Councillor Trevor Bartlett, Portfolio Holder for Property Management and Public Protection
Decision Type:	Executive Non-Key
Classification:	Unrestricted

Purpose of the report:	To review the current provision for litter and dog fouling enforcement further to vacancies arising in the Environmental Crime Team.
Recommendation:	To agree the future approach for litter and dog fouling enforcement.

1. Summary

- 1.1 The Clean Neighbourhoods and Environment Act 2005 gave local authorities extended powers to tackle environmental crime, including the use of fixed penalty notices as an alternative to prosecution.
- 1.2 In June 2012, Cabinet gave approval for a robust environmental enforcement approach utilising these powers and agreed to strengthen and supplement the environmental enforcement team through the use of additional internal and external resources. As a result of problems with the proposed external supplier (Xfor) this approach was not implemented. Instead in May 2013 Cabinet gave approval for an in house Environmental Crime Team to be formed to tackle issues such as littering, dog fouling and fly tipping.
- 1.3 Since the launch of the service in August 2013 there has been a high turnover of staff in the Environmental Enforcement Officer (EEO) role. In July 2016 an EEO position become vacant again. This provides an opportunity to review the Council's current method of littering and dog fouling enforcement delivery. A number of options for delivery of the enforcement function provided by this vacancy have been explored and direction from the Council's Cabinet is now sought.

2. Introduction

- 2.1 Through the Clean Neighbourhoods and Environment Act 2005 (CNEA), the government extended the powers available to local authorities to tackle environmental crime which blights local neighbourhoods, e.g. fly tipping, dog fouling, littering, graffiti etc. In particular the Act extended the use of fixed penalty notices as an alternative to prosecution across a range of offences. This enables local authorities to deal with first time offenders and offences at the more minor end of the scale more efficiently without the need, or expense of pursuing matters through the courts. By using these powers, local authorities can send out a powerful message to the wider community that such crimes will not be tolerated.

- 2.2 The Act allows local authorities to retain all fixed penalty notice receipts. However, it should be noted the government are clear that FPNs are not intended to be revenue raising but to provide an adequate deterrent and to cover the cost of enforcement. Hence receipts can only be used for the purpose of its qualifying functions.

Background

- 2.3 Surveys undertaken by Dover District Council and Neighbourhood Forum meetings indicated that littering and dog fouling are key concerns for residents of the district¹. In response to these concerns, in June 2012, Cabinet agreed the Council would introduce a more robust system of environmental enforcement within the district and make greater use of the fixed penalty enforcement powers available. In mid-August 2013 the Environmental Crime Team was publically launched following the appointment of three Environmental Enforcement Officers (EEOs).
- 2.4 The primary role of the uniformed EEOs is to tackle littering and dog fouling. Their remit also includes providing a dog warden service and assisting the Environmental Crime team with investigation work. The officers ordinarily patrol the district on a rota basis between 6am and 9pm seven days a week. The officers can be deployed outside of these hours in response to problem areas. The shifts finish earlier in the darker winter evenings.
- 2.5 To further enhance the Council's litter and dog fouling enforcement the Environmental Crime Team trained over 100 officers including members of neighbourhood policing teams, KCC Community Wardens, Environmental Health Officers, Civil Enforcement Officers, Waste Services Officers, Community Safety Officers and Landscape Services Officers in completing Incident Report Books. This scheme enables officers to accurately record dog fouling and littering offences witnessed whilst conducting their normal duties. Any evidence gathered is followed up by the EEOs who investigate and issue FPNs where appropriate.
- 2.6 The current vacancy provides an opportunity for the Council's approach to be reviewed. The service has been weakened through high staff turnover resulting in EEO vacancies for the majority of time since the service was introduced in August 2013. The alternative to the current approach of directly employing the EEOs is to utilise a contractor arrangement.

3. Identification of Options

Option 1 Continue with direct employment of staff to fill any vacancies arising maintaining a team of 3 EEOs.

Option 2 Combination of directly employed EEOs and use of external contractors.

4. Evaluation of Options

- 4.1 In summary Option 2 is the preferred option taking into consideration the value for money, the flexibility of service focus, statutory requirements and quality of service.
- 4.2 The benefit of a combined service is that

¹ Environmental Enforcement Cabinet Report June 2012

- contractors would focus on day to day littering issues which occur mainly in the larger urban areas of the District. This would provide a minimum of 2 contractors carrying out 96 hours of patrols in a week.
- the in-house EEOs would be able to spend far more time dealing with dog related issues in particular fouling. Compliments have already been received from the public on the improvements they have seen on beaches since the introduction of the Public Spaces Protection Order in July 2015. This is a direct result of uniformed officers carrying out highly visible patrols in areas like beaches and parks. These patrols would increase as in-house officers would be spending less time dealing with littering. More time could also be devoted to hotspot areas where regular reports of fouling are received.
- In-house EEOs would also be able to provide greater assistance in the investigation of commercial waste and fly tipping
- The in-house EEOs would continue to provide services like micro-chipping and ensuring our statutory duties to deal with stray dogs are met

All of the above would take place whilst simultaneously providing a cost neutral consistent litter enforcement service to the public. There is also potential for income which can be used to improve the service further.

- 4.3 The initial approach taken by a number of neighbouring authorities who have researched the market and are operating similar schemes is to directly appoint a contractor for an initial 12 month trial period. Based on our discussions with these authorities we have identified a preferred Contractor for a trial period who operates a unique business model that minimises the financial risk to the Council.
- 4.4 A formal agreement would be established to set out the level of service and indemnity provided by the Contractor. In addition to which the service would be closely monitored by the Environmental Crime Team Leader and Environmental Protection Manager, carrying out regular checks on FPNs issued and income received. This would be supplemented by meetings with managers from the contractor.
- 4.5 Subject to the successful running of the scheme a full competitive procurement exercise would be carried out for the provision of the service post the initial trial period.
- 4.6 The incident report book scheme will continue regardless of the option selected.
- 4.7 **Option 1** Continue with direct employment of staff to fill any vacancies arising maintaining a team of 3 Environmental Enforcement Officers.
- 4.7.1 This would mean continuing with the current departmental set up and going out to recruitment whenever vacancies arise. The time consuming recruitment process requires advertising, shortlisting and interviewing prior to appointment. This impacts on the level of service provided due to protracted vacancies, and adds a level of inconsistency to the service.
- 4.7.2 In last financial year the current service issued 103 FPNs creating an income of £6,200. See appendix one for further details.
- 4.8 **Option 2** The current vacancy would not be filled representing a salary saving of approximately £20k per annum. The service level would be maintained through a

combination of the existing 2 EEO posts and the use of external contractors to supplement the service.

- 4.8.1 An external contractor, with experience in the field through operating in several local authorities across the country, has been approached and provided two scenarios of how an enforcement service could be provided.
- 4.8.2 Each scenario provides 200 hours per week of contractor time, spread over uniformed officers, administrators and team leaders. This translates to a minimum of 96 hours per week of officer patrol time.
- 4.8.3 **Scenario A.** DDC is charged for each successfully issued FPN.
No direct outlay from the Council as the contractor's costs are met from monies generated by FPNs. The contractor would retain 62% of all potential income of successfully issued FPNs. In this scenario the contractor would provide a minimum of 2 uniformed officers. By way of example if 2000 FPNs were issued a year and the payment rate was at 70% this would bring DDC an estimated additional income of around £12000. This is a similar model to that utilised by a number of other local authorities nationally including several in Kent.
- 4.8.4 The payment rate for FPNs in DDC is currently just below 80%. If utilising contractors in the above scenario, the rate would have to fall below 62% to be a financial risk to the Council.
- 4.8.5 **Scenario B.** Hourly rate
DDC pay the contractor £19 per hour, i.e. £3800 per week. Again a minimum of 2 uniformed officers would be provided. 100% of Income generated from any fixed penalty notices issued would be received directly by the Council. By way of example if 2000 FPNs were issued a year and the payment rate was at 70%, this would cost DDC an estimated £85000. It would only become cost neutral over a year once 2500 fixed penalty notices had been paid. Using the same 70% estimated payment rate as above, this would require over 3500 tickets to be issued a year or 70 per week.

5. Resource Implications

<u>Option 1</u>	No resource implications as this option can be met within existing budgets.
<u>Option 2 Scenario A</u>	This option can be implemented at no additional cost to the Council and provides an opportunity to generate income to aid in funding the service as detailed in the above. There would also be a salary saving of approximately £20k per annum together with a reduction in costs associated with vehicle hire, uniform and salary on-costs etc.
<u>Option 2 Scenario B</u>	Estimates indicate this option would lead to a cost to the council. It would only become cost neutral over a year once 2500 fixed penalty notices had been paid. Using the same 70% estimated payment rate as above, this would require over 3500 tickets to be issued a year or 70 per week.

6 Corporate Implications

- 6.1 Comment from the Section 151 Officer: Finance has been consulted and has nothing further to add (SB).

- 6.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 6.3 Comment from the Equalities Officer: The report does not specifically highlight any equalities implications, however, in discharging their responsibilities members are required to comply with public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>

7 **Appendices**

Appendix 1 – Table of FPNs issued in the preceding three financial years.

8 **Background Papers**

Cabinet Report June 2012 – Use of FPNs to strengthen environmental enforcement powers

[http://moderngov.dover.gov.uk/Data/Cabinet/20120611/Agenda/\\$Agenda05.doc.pdf](http://moderngov.dover.gov.uk/Data/Cabinet/20120611/Agenda/$Agenda05.doc.pdf)

Cabinet Report May 2013 – Environmental Enforcement Service Delivery Options

<http://moderngov.dover.gov.uk/documents/s2274/Environmental%20Enforcement%20Service%20Delivery%20Options.pdf>

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