
Subject: ENVIRONMENTAL ENFORCEMENT SERVICE DELIVERY OPTIONS

Meeting and Date: Cabinet – 13 May 2013

Scrutiny – 15 May 2013

Council – Extraordinary Council Meeting – 22 May 2013

Report of: David Randall, Director of Governance

Portfolio Holder: Councillor Nick Kenton, Portfolio Holder for Environment, Waste and Planning

Decision Type: Key Decision

Classification: Unrestricted

Purpose of the report: To implement a revised approach to Environmental Enforcement activities following the decision to cease negotiations with an external supplier (XFor) and to allocate the necessary resources.

Recommendation:

1. Subject to Council making the required funding available, to approve the approach detailed in option 5 involving the direct employment of Staff (Environmental Enforcement Officers)
2. Cabinet to consider whether in-year savings from the 2013/14 budget can be utilised to fund the budget pressure.
3. If this isn't achievable Council approve the application of up to £82,900 from the General Fund Balance to meet the 2013/14 expenditure required to fund the Envirocrime Team.

1. Summary

1.1 Under the Clean Neighbourhoods and Environment Act 2005, local authorities were given extended powers to tackle environmental crime, including the use of fixed penalty notices as an alternative to prosecution. In June 2012, Cabinet gave approval for a robust environmental enforcement approach and agreed to strengthen the environmental enforcement team and supplement it by the use of additional internal and external resources. Unfortunately the Council has been unable to implement this approach following the decision to cease negotiations with the external supplier (Xfor). A number of alternative options for delivery of the enforcement function have been explored and approval is sought on the revised approach. The recommended option for delivery from a financial, practical and service quality perspective is to directly recruit up to 3 Environmental Enforcement Officers to the Environmental Crime team (Option 5). Civil Enforcement Officers, other Council Officers, PCSO's, Community Wardens, Parish Council's etc will continue to play an extremely important supplementary role in the scheme.

2. Background

- 2.1 It is evident from public surveys undertaken by Dover District Council and Neighbourhood Forum meetings that littering and dog fouling are key concerns for residents of the district¹. In response to public concerns Cabinet agreed in June 2012 that 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. The approach approved was to strengthen the environmental enforcement team and supplement it by use of additional resources (PCSO's, Community Wardens, Parish Council Staff etc) including use of external resources. The Council has introduced an Incident Report Book Scheme whereby individuals can report incidents they witness whilst undertaking their normal duties. Whilst the Council is continuing to work with and utilize CEOs, PCSOs, Community Wardens and Parish Council's it has been unable to secure the use of external resources following the decision to cease negotiations with the external supplier XFor.

3. Introduction

- 3.1 In the provision of an environmental enforcement service it was anticipated that an external contractor (Xfor) would provide suitably trained Enforcement Officers to patrol the district and issue Fixed Penalty Notices (FPNs) in relation to littering and dog fouling, for which they would receive a fixed rate for each successfully issued FPN.
- 3.2 The proposal offered by the XFor contract included provision of 5 Enforcement officers (working in pairs) and an administrative officer who, between them, would undertake officer patrols between 7am and 7pm 7 days a week, provide all administrative services, staff training, absence cover, uniforms and vehicles in relation to littering and dog fouling enforcement in the district.
- 3.3 In determining the alternative options available in terms of enforcement service delivery consideration has been given to the requirements of the revised service:
- (a) Service Focus
- 3.4 Under the original proposal, only the littering and dog fouling enforcement responsibilities were included within the Xfor officers' remit. As the current Dog Warden contract terminated on 31st March 2013 all other dog related functions undertaken by the dog warden (stray dogs, signage, barking dogs) were to be brought in-house reducing the cost of the dog warden service from £30k to £10k per annum. Any revised service will include all aspects of dog control (Stray dogs, Dog fouling FPNs, Dog control signage etc) as well as Litter FPNs. Patrolling officers would also be expected to monitor and report back to relevant departments for action other environmental issues such as Abandoned vehicles, Waste issues, Fly tipping, Untidy premises, Graffiti and fly posting.
- 3.5 Due to the nature of the original proposal enforcement officers would undoubtedly have concentrated on town centre areas focussing on littering as opposed to dog fouling and other environmental crime creating an uneven balance between tackling littering and dog fouling offences. As a stronger emphasis on dog fouling is required a greater degree of flexibility and control is necessary in terms of where patrols are targeted to ensure dog fouling hot spot areas are tackled effectively. In order to

¹ Environmental Enforcement Cabinet Report June 2012

achieve this flexible approach, payment by the hour/salary as opposed to per FPN issued will be necessary.

(b) Operating Hours

- 3.6 The original proposal allowed for service coverage on a flexible basis between the hours of 07:00 and 19:00 hours, 7 days a week for the 6 month trial period. To be most effective it is anticipated that the revised service would be required to operate flexible hours anytime between 06:00 and 21:00 hours including weekends. Special operations would be undertaken on an occasional basis to cover early hours (i.e. before 6am) or late night (joint patrols with Police).

(c) Staffing Levels

- 3.7 The original proposal sought to have 2 teams of 2 officers (pairs) patrolling at any one time. It should be acknowledged that neither the existing Dog Warden nor CEOs operate in pairs and therefore the revised service would also involve officers ordinarily working alone. Assuming a minimum of 2 officers are assigned to Environmental Enforcement duties per day, a core of up to 3 Officers would be required to cover variable shift patterns between the operating hours of 06:00 to 21:00 hours, leave/sickness etc. In addition a 0.5 FTE Administration officer would be required.

4. Identification of Options for the Provision of the Environmental Enforcement function

- 4.1 Six options have been identified to deliver the environmental enforcement function:

Option 1 Do nothing - Rely on Incident Report Book Scheme Only for Enforcement

Option 2 Utilise Agency Staff as Enforcement Officers

Option 3 Use of External Contractors

Option 4 Shared Service

Option 5 Direct employment of Staff (Environmental Enforcement Officers)

Option 6 Utilise CEOs to undertake Environmental Enforcement duties

5. Evaluation of Options

Option 1 - Rely on Incident Report Book Scheme Only for Enforcement (Estimated cost per annum: £26k)

- 5.1 Whilst this option is the most viable from a financial perspective it is also likely to be the least effective in terms of achieving the aims of the service. Therefore this approach is not recommended in isolation although remains a fundamental part of the overall strategy.

Option 2 - Agency Staff (Estimated cost per annum: £72k)

- 5.2 Utilising this option may allow Enforcement Officers to be assigned quickly (speedier recruitment process) hence obtaining greatest benefit from the recent promotional activities, and it is the least expensive option. However, there is concern over the

effectiveness of this approach and there are only a limited number of agencies able to supply suitable specialist officers. Therefore this approach is not recommended.

Option 3 - Use of external contractors (Estimated cost per annum: £113k)

- 5.3 There is still some uncertainty as to whether accredited alternative suppliers are available in the market to deliver this type of work in accordance with our primary requirement of securing prevention and compliance rather than meeting aggressive FPN targets. Recent national media coverage has been very negative towards LA use of private companies to supply this type of work as they are often seen to be less sympathetic to the public service agenda. Therefore, the availability of suitable personnel and the exact cost of an external service is unknown, however based on the cost of the current dog warden service the service cost is estimated to be circ. £113k per annum. As this approach is potentially more expensive and likely not to meet our primary requirements, it is not recommended.

Option 4 - Shared Services

- 5.4 The services provided by neighbouring authorities have been explored. There are concerns over the feasibility of a shared service due to likely differences in approach and size of geographical areas.

Option 5 - Direct employment of Staff (Environmental Enforcement Officers) (RECOMMENDED) (Estimated cost per annum: £83k)

- 5.5 Dedicated officers recruited specifically for the role are likely to be the most effective option. By being permanently assigned to the Environmental Crime team, Officers would have clear direction and understanding of the role and relevant legislation, and, are more likely to provide consistency in terms of quality of service, ensuring fixed penalty notices are issued appropriately hence resulting in higher payment rates. This approach would enable individuals to build up an understanding of the issues in the district and contribute to the development and progression of the service. Officers will not be set aggressive FPN targets, the primary aim is prevention and compliance rather than income generation, nonetheless a modest income stream has been assumed from the service. In addition this is one of the cheapest options available to the Council. This is therefore the preferred option.
- 5.6 If this option is approved the Chief Executive, as Head of Paid Service, would make the necessary adjustments to the Council's establishment in accordance with the Constitution.

Options 6 - Utilise CEOs to undertake Environmental Enforcement duties (Estimated Cost per annum: £117)

- 5.7 Consideration has been given as to whether an officer would be assigned a single or dual role at any one time. Whilst in theory CEOs could perform a dual role, Traffic Management Guidance discourages this approach. In addition, the type of location to be patrolled for parking offences will differ vastly to that of dog fouling meaning this would not be a practical option in isolation. As an alternative, an officer could be assigned to perform a single role at any one time.
- 5.8 There are a number of options that have can been considered in terms of staffing which includes:

- 2 officers at a time from the existing pool of CEOs allocated on a rota basis to cover the EEO function. However, this would impact significantly on the current parking service and would result in a loss of service and income from parking penalties.
- Recruiting 2 new CEOs in addition to training all existing CEOs. Staff from the pool would ensure that shifts/leave/sickness periods are covered (i.e. 3rd officer) with a reduced effect on the level of parking service or income generated from it.
- Existing CEOs are utilised to cover the environmental enforcement duties with their time backfilled through overtime arrangements to ensure the parking service and income generated is unaffected. However, this is a costly option and reliant on the willingness of CEOs to undertake a significant amount of overtime.

5.9 There is no financial incentive to utilise CEOs as opposed to recruiting dedicated EEOs and, in addition, there are a number of factors which would affect the effectiveness and practicability of using this approach. For example:

- Environmental enforcement involves criminal as opposed to civil law. There are significant differences in approach required such as burden of proof, level of evidence required, sanctions etc
- The range and depth of legislative knowledge required by officers delivering both parking and environmental enforcement functions would be significant.
- Combining the roles could have the effect of diluting both, meaning neither service is performed to its full potential.
- Environmental enforcement work is potentially more confrontational as officers are required to have face-to-face engagement in every case in order to confirm identity prior to issuing FPNs. Therefore there is likely to be resistance from CEOs to perform the environmental enforcement function. Officers forced in to the role are unlikely to be fully engaged in providing the service.
- The location and operating hours associated with parking patrols differs vastly to those required for environmental offences such as dog control work.

6. Recommendation

6.1 The preferred option for service delivery from a value for money, practical and service quality perspective is to directly recruit up to 3 Environmental Enforcement Officers to the Environmental Crime team (Option 5). However, it should be acknowledged that CEOs, other Council Officers, PCSO's, Community Wardens etc play an extremely important role in terms of the environmental enforcement function and should be encouraged at every opportunity to continue to utilise the Incident Report Book scheme for reporting offences witnessed whilst performing their normal duties. In addition, the Council will explore further opportunities to work in partnership with individual Parish Councils. This could include, for example, the facility for individual Parishes to request additional enforcement officer presence/patrols paid for at an agreed hourly rate, helping to offset the overall costs associated with providing the service.

7. Equalities

- 7.1 Full Equalities Impact Assessments have been undertaken for all associated Policies, Procedures and Working.

8. Resource Implications

The 2013/14 approved budget includes direct staffing costs for the Environmental Crime Team Leader and Technical Support Officer. The following table reflects the additional costs of providing the preferred revised service.

<i>Revenue Implications</i>	<i>2013/14 £000</i>	<i>On-Going £000</i>
Expenditure:		
Total Enforcement Officer Costs	51.0	77.0
Total vehicle costs	5.6	8.4
Administrative costs	8.0	12.0
Temporary Dog Warden Service	13.3	0.0
Income:		
Revised FPN Income*	5.0	(9.0)
Savings from stray dog service	0.0	(5.0)
Additional Budget requirement	82.9	83.4

* The 2013/14 budget includes a net profit from the original XFor proposal of £34k. The revised proposal assumes a full year income stream to be retained by the Council of £43k.

9. Corporate Implications

Comment from the Section 151 Officer

- 9.1 The Budget for 2013/14 and the MTFP for the period to 2015/16 were approved by Council in March 2013 and forecast that savings of £1.45m would be required by 2015/16 to balance the budget. The proposals for Environmental Enforcement are outside of the current budget and policy framework, and so they need to be approved and resourced by Cabinet and Council.
- 9.2 Work has now commenced on the Budget and MTFP for 2014/15 – 2016/17. With the inclusion of the latest projections of future government settlements, revised assumptions and other identified pressures, it is now forecast that savings of up to £1.7m will be required by 2015/16 to balance the budget. The proposed increase of £83k per annum in resources for Environmental Enforcement takes this target up to £1.8m.
- 9.3 If the enhancement of Environmental Enforcement is approved, and if sufficient savings from other services, or additional income, or a combination of the two, cannot be identified within the 2013/14 budget, then it is proposed to resource this, for 2013/14, from General Fund balances. At present the required savings / additional income have not been identified. If this remains the case, the use of General Fund balances will be required, and so Council approval for this is now sought.
- 9.4 From 2014/15 onwards, the additional £83k will require offsetting savings to be made

from other services, in addition to the other savings required, as part of the overall MTFP savings target outlined above.

Comment from the Solicitor to the Council

- 9.5 The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

Comment from the Equalities Officer

- 9.6 As stated in the report, policies, procedures and working practices developed as part of implementing the preferred option will be assessed for Equality relevance. This report does not specifically highlight any equalities implications however, in discharging their responsibilities members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>

10. **Appendices**

11. None.

12. **Background Papers**

13. None.

Contact Officer: Diane Croucher, Environmental Enforcement and Protection Manager