

Name of meeting: Cabinet
Date: 17 January 2017
Title of report: Commissioned Enforcement Partnership

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan ?	No
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by Director & name Is it signed off by the Assistant Director Resources - Financial Management, Risk, IT and Performance? Is it signed off by the Assistant Director - Legal, Governance & Monitoring?	Jacqui Gedman - 09.01.17 Debbie Hogg - 05.01.17 Julie Muscroft - 09.01.17
Cabinet member portfolio	Cllr Naheed Mather - Place Housing & Enforcement Management

Electoral [wards](#) affected: ALL
Ward councillors consulted: N/A

Public or private: **Public**

1. Purpose of report

- 1.1 This report is requesting permission to commission a 12 month trial of joint working with a private enforcement company for the issuing and management of Fixed Penalty Notices (FPN) in relation to litter, dog and related environmental offences.

2. Key points

2.1 Background

- 2.1.1 The Council has a responsibility to ensure that the district is kept clean, with one strand of this tackling littering, dog fouling and associated environmental offences, which are covered within criminal legislation.
- 2.1.2 The Council has a reducing enforcement presence, with an establishment number of 13 specific dog warden/waste enforcement

officers presently reduced to 6 as a result of the proposed service changes. These changes are expected to be in the order of 12 months away.

- 2.1.3 One part of the duties of the team was patrolling and issuing FPN's for littering and dog related offences such as dog fouling and dogs off leads. However capacity to do this has significantly been impacted by the reduction in staff, to the extent that this activity is no longer possible.
- 2.1.4 The patrolling and issue of FPN's was part of a wider strategy to tackle littering and dog fouling in the district running in parallel with education and physical support such as provision of bins at points of assessed need, dog bag dispensers, and signage.
- 2.1.5 The vast majority of tickets were issued by members of the Street Scene Action Team with partners issuing a small number, so the cessation of this activity due to resources has had a significant impact on this area of work.
- 2.1.6 There is the opportunity to commission on a trial basis a company who supply a service to local authorities patrolling and issuing fixed penalties for littering and similar offences, (see appendix one for offences and penalties) they then manage the case file until the fine is either paid or the matter is ready for prosecution
- 2.1.7 This service would include the supply of staff – both street based patrols, management and back office support who will provide support to manage other fixed penalties that are issued by enforcement officers for offences that the external provider do not cover.
- 2.1.8 The enforcement team are currently being trained and authorised to present at magistrates court, simple non contested cases to enable the anticipated increased workload to be dealt with as economically as possible and to minimise the requirement for additional resources in legal services. Even if the decision is not to go forward with a commissioned external provider following the trial, this approach will still be of benefit and achieve efficiency savings.
- 2.1.9 There are two significant changes to the protocols on discharging these offences by means of a fixed penalty under this suggested commissioned approach; the early repayment discount would be removed as would the restorative justice option to attend a good citizen course.
- 2.1.10 The Equality Impact Assessment is attached (appendix 2) which shows that the impact of this does not specifically impact on any identified group, and the intended greater rate of offenders caught has a positive impact on certain groups, for example reduction in dog fouling has a positive impact on wheelchair users.
- 2.1.11 Any income generated would be proposed to be used to carry out environmental deference and enforcement activity.

2.2 Recommendations

- 2.2.1 To give permission to undertake a 12 month trial of a suitable service provider, to see if this has a positive impact on the actual and perceptual issues around littering and dog fouling and related issues, and then undertake a wider procurement exercise to gain a commissioned partner going forward to manage these offences if the impact is seen to be beneficial.

3. Implications for the Council

- 3.1 Financial - There is a saving of support capacity that is being given by the commissioned firm within the overall package to support other enforcement activity. The contract will be cost positive and any surplus will be used to support activities.
- 3.2 Resource - There is some resource implication for the procurement exercise, but after that this scheme is resource positive with the embedded staff releasing business support capacity from FPN management.
- 3.3.1 Legal and reputational risk – This has been put in place in a number of other authorities as a response to reduced internal capacity, and as such is now a tested method of this enforcement delivery. The legal implications of case mismanagement or challenge are reduced with body cams worn by staff, and the experience of people whose central role is the issue and management of Fixed Penalty Notices for a focused number of offences.
- 3.3.2 There is the further impact of the withdrawal of the early repayment option and the opportunity to access the restorative justice route via the good citizen's course, which for these offences would be withdrawn to meet the business model of a service supplier.

4. Consultees and their opinions

- 4.1 The Unions have been informed of the proposals which are to supplement the existing enforcement work undertaken by the council as regards location based ASB, and is not replacing existing service provision.

5. Next steps

- 5.1 Undertake the procurement exercise with the exemptions granted as a trial to see if the approach can be successful within Kirklees to reduce the actual and perceptual issues around litter and dog related offences

6. Officer recommendations and reasons

- 6.1 That Cabinet approve the recommendations to go forward with a commissioned enforcement service supporting the other in house environmental enforcement work and to authorise the AD Place and the AD Legal Governance and Monitoring to make consequential changes to the FPN protocol.

7. Cabinet portfolio holder recommendation

- 7.1 Councillor Naheed Mather, the portfolio holder for Housing and Enforcement Management supports the officer recommendations and would ask, that Cabinet approve the recommendations to go forward with a commissioned enforcement service, supporting the other in house environmental enforcement work and to authorise the AD Place and the AD Legal Governance and Monitoring to make consequential changes to the FPN protocol.

8. Contact officer and relevant papers

Officers:

Rob Dalby – Parks and Greenspaces Manager – Streetscene and Housing,
Tel: 01484 221000
Email rob.dalby@kirklees.gov.uk

<https://www.gov.uk/guidance/litter-and-refuse-council-responsibilities-to-keep-land-clear>

9. Assistant director responsible

Joanne Bartholomew - Assistant Director Place
Tel 01484 221000
Email joanne.bartholomew@kirklees.gov.uk

Offence / Issue	Legislation	Fixed Penalty levels	First response	follow up	Escalation
Littering (age 18 and over)	s. 87 Environmental Protection Act (1990)	FPN £75	Details taken by authorised officer at time of offence & send FPN	N/A	Prosecution £2500
Commercial sale of multiple vehicles on the highway	s.3 Clean Neighbourhoods and Environment Act (2005)	FPN £ 75	First offence issue warning letter	Issue FPN on second and subsequent offences	Prosecution £ 2500
Repair of Motor Vehicles on the highway for gain	s.4 Clean Neighbourhoods and Environment Act (2005)	FPN £ 75	First offence issue warning letter	Issue FPN on second and subsequent offences	Prosecution £ 2500
Proposed Public Space Protection Order: Drinking alcohol in public (designated areas only)	s. 59 Anti-social Behaviour, Crime and Policing Act (2014)	FPN £75	Authorised officer asks person to stop drinking and may require surrender of alcohol.	Details taken by authorised officer at time of offence & send FPN	Prosecution £500
Proposed Public Space Protection Order: public urination or defecation (designated areas only)	s. 59 Anti-social Behaviour, Crime and Policing Act (2014)	FPN £75	Details taken by authorised officer at time of offence & send FPN		Prosecution £1000
Distributing printed material within the designated control area (Inside Huddersfield ring road + springwood Car park) or having large accumulations of flyers left on street	s.94b Environmental Protection Act (1990)	FPN £ 75	Check if distribution is authorised / is business distributing via street promotion if not follow code	N/A	Prosecution £ 2500
fly posting on highways street furniture	s.132 Highways Act (1980)	£100	Issue one FPN for all adverts on first offence and make clear all subsequent offences will be dealt with as per follow up	issue FPN for every illegal advert on second offence	Prosecution £ 2500
Proposed Public Space Protection Order: Dog Fouling/Not having means to pick up/Dog in exclusion zone/Dog not on lead	s. 59 Anti-social Behaviour, Crime and Policing Act (2014)	FPN £75	Issue of FPN	N/A	Prosecution £1000

A guide to equality Impact Assessments (EIAs)

What are Equality Impact Assessments (EIAs)?

- EIAs are a **tool to help you analyse and make more considered decisions** about changes to service delivery, policy and practice. An EIA will help you to identify how specific communities of interest may be affected by decisions and to consider any potential
- EIAs can also help to improve or promote equality by encouraging you to **identify ways to remove barriers and improve participation** for people with a protected

Why do we need to do Equality Impact Assessments (EIAs)?

- Although not a mandatory requirement, EIAs provide important **evidence** of how we have considered the implications of service and policy changes and demonstrate how we
- The three main elements of the **Public Sector Equality Duty** are:
 - ✓ Eliminating discrimination
 - ✓ Promoting equality of opportunity
 - ✓ Fostering good relations
- In fulfilling our Public Sector Equality Duty we must ensure that we demonstrate that we have followed a number of key **principles** (based on previous case law):
 - ✓ Knowledge
 - ✓ Timeliness
 - ✓ Real consideration
 - ✓ Sufficient information
 - ✓ No delegation
 - ✓ Review
 - ✓ Proper record keeping
- We need to provide evidence that we have given **due regard to any potential discriminatory impact on people with protected characteristics** in shaping policy, in
- We must always consider whether a service change, decision or policy could have a discriminatory impact on people with protected characteristics, not just any impact that is the
- The EIA tool allows us to **capture, demonstrate and publish our rationale** of how we have considered our communities and legal responsibilities under the Public Sector
- **But above all, EIAs are about understanding and meeting the needs of local people and supporting us to deliver our vision for Kirklees.**

When do we need to do Equality Impact Assessments (EIAs)?

- Whenever you plan to **change, introduce or remove** a service, activity or policy.
- At the **VERY BEGINNING** of any process of:
 - ✓ Budget setting
 - ✓ Service review (including changes to employment practice)
 - ✓ Planning new projects and work programmes
 - ✓ Policy development and review
 - ✓ Procurement or commissioning activity

Who should do it?

- Overall responsibility for EIAs lies at a **service** level. A lead officer should be appointed from the service area that is making a proposal and all decisions should be

- Those directly affected (partners, stakeholders, voluntary groups, communities, equality groups etc) should be engaged with as part of the process.

How should we do it?

- Our EIA process has two stages:

Stage 1 - initial screening assessment

Stage 2 - further assessment and evidence

EIA STAGE 1 – SCREENING TOOL (initial assessment)

The purpose of this screening tool is to help you consider the potential impact of your proposal at an early stage.

Please give details of your service/lead officer then complete sections 1-3:

- 1) What is your proposal?
- 2) What level of impact do you think your proposal will have?
- 3) How are you using advice and evidence/intelligence to help you?

You will then receive your stage 1 assessment score and advice on what to do what next.

Directorate:	Senior Officer responsible for policy/service:
Place	Will Acornley
Service:	Lead Officer responsible for EIA:
Environmnet and Greenspace	Rob Dalby
Specific Service Area/Policy:	Date of EIA (Stage 1):
Environmental enforcement	16-Nov-16

Go back

Move to next
section

1) WHAT IS YOUR PROPOSAL?	Please select YES or NO
To introduce a service, activity or policy (i.e. start doing something)	NO
To remove a service, activity or policy (i.e. stop doing something)	NO
To reduce a service or activity (i.e. do less of something)	NO
To increase a service or activity (i.e. do more of something)	NO
To change a service, activity or policy (i.e. redesign it)	YES
To start charging for (or increase the charge for) a service or activity (i.e. ask people to pay for or to pay more for something)	NO
Please briefly outline your proposal and the overall aims/purpose of making this change:	
<p>To introduce a commissioned service with a third party company to issue and arrange fixed penalties for , littering and dog related offences, with the removal of early repayment discounts for these offences and the opportunity to abate the offence by attendance on a good citizens course.</p>	

Go back

Move to next
section

2) WHAT LEVEL OF IMPACT DO YOU THINK YOUR PROPOSAL WILL HAVE ON...		Level of Impact
		Please select from drop down
Kirklees employees within this service/directorate? (overall)		Neutral
Kirklees residents living in a specific ward/local area?		Neutral
Please tell us which area/ward will be affected:		all
Residents across Kirklees? (i.e. most/all local people)		Neutral
Existing service users ?		Neutral
Each of the following protected characteristic groups ?		Please select from drop down
<i>(Think about how your proposal might affect, either positively or negatively, any individuals/communities. Please consider the impact for both employees and residents - within these protected characteristic groups).</i>		
...age	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Positive
...disability	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Positive
...gender reassignment	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...marriage/ civil partnership	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral

...pregnancy & maternity	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...race	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...religion & belief	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...sex	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...sexual orientation	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral

Go back

Move to next
section

3) HOW ARE YOU USING ADVICE AND EVIDENCE/INTELLIGENCE TO HELP YOU?		Please select YES or NO
Have you taken any specialist advice linked to your proposal? (Legal, HR etc)?		YES
Do you have any evidence/intelligence to support your assessment (in section 2) of the impact of your proposal on...	...employees?	NO
	...Kirklees residents?	YES
	...service users?	YES
	...any protected characteristic groups?	YES
<p>The introduction of a third party and removal of early repayment and good citizen course avenues of abatement of the offence does not impact on any specific group, as the offences of littering and dog fouling / dogs off leads are completely reactive and based within the open environment. The existing appeal process will continue, allowing any special circumstances to be considered, with the final check and balance being the court to decide guilt or innocence if contesed, and to apportion punishment as appropriate if found guilty.</p>		
		Please select from drop down
To what extent do you feel you are able to mitigate any potential negative impact of your proposal on the different groups of people outlined in section 2?		NOT AT ALL
To what extent do you feel you have considered your Public Sector Equality Duty?		FULLY

Go back

Move to next section

STAGE 1 ASSESSMENT

IMPACT	RISK
Based on scoring of 1) and 2)	Based on scoring of 2) and 3)
0	8
SCORE (calculated) Max = - / + 32	SCORE (calculated) Max risk = - / + 40

You need to move on to complete a Stage 2 assessment if:

The final Impact score is negative and or the Risk score is negative.

Go back