

Summary Sheet

Council Report

Cabinet and Commissioners' Decision Making Meeting – 9 January 2017

Title

Enhanced Environmental Crime and Parking Enforcement

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Damien Wilson, Strategic Director of Regeneration and Environment

Report Author(s)

Karen Hanson, Assistant Director, Community Safety and Street Scene

Ward(s) Affected

All

Summary

On 12 September 2016, the Cabinet and Commissioner's Decision Making Meeting considered and approved a report detailing future options for enhanced environmental enforcement.

The report described the Council's desire to strengthen enforcement activity around environmental crime issues such as littering, dog fouling and fly-tipping. In particular, Cabinet adopted a 'Time for Action' approach which outlined a stronger, more robust response to environmental crime leading ultimately to improvements in the quality of life and environment for the residents of Rotherham to enjoy.

Removal and disposal of fly-tipping alone costs the Council in excess of £250,000 per year. Street cleansing, litter picking, environmental enforcement activity, and engagement increases the annual cost of dealing with environmental crime significantly to around £1.7 million.

Since September, a range of options have been considered which are outlined in this report. This paper seeks approval to progress discussions with Doncaster Metropolitan Borough Council to develop a shared service provision for 12 months, utilising their existing contract with an external provider, with an initial evaluation after six months.

Recommendation

That discussions with Doncaster Metropolitan Borough Council are commenced to explore the options and feasibility of a shared service, utilising their existing contract with an external provider, to deliver enhanced environmental crime and parking enforcement within Rotherham on the basis of a twelve month pilot (with an initial evaluation after 6 months).

List of Appendices Included

There are no appendices attached to this report

Background Papers

The following documents have been considered when preparing this report:

- Review of the Environment Services Directorate: Cabinet/Commissioner Decision Making Meeting 14th March 2016 (minute 38)
- Future Options for Enforcement Services: Cabinet/Commissioner Decision Making Meeting 12th September 2016 (minute 68)
- Environmental Protection Act 1990

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Enhanced Environmental Crime and Parking Enforcement

1. Recommendations

- 1.1 That discussions with Doncaster Metropolitan Borough Council are commenced to explore the options and feasibility of a shared service, utilising their existing contract with an external provider, to deliver enhanced environmental crime and parking enforcement within Rotherham on the basis of a twelve month pilot (with an initial evaluation after 6 months).

2. Background

- 2.1 On 12 September 2016, Cabinet approved a series of recommendations relating to a series of options for environmental enforcement.
- 2.2 The report described the Council's desire to strengthen enforcement activity around enviro-crime issues such as littering, dog fouling and fly-tipping. In particular, Cabinet adopted a 'Time for Action' approach which outlined a stronger, more robust response to environmental crime leading ultimately to improvements in the quality of life and environment for the residents of Rotherham to enjoy.
- 2.3 Removal and disposal of fly-tipping alone costs the Council in excess of £250,000 per year. Street cleansing, litter picking, environmental enforcement activity, and engagement increases the annual cost of dealing with environmental crime significantly to around £1.7 million.
- 2.4 It is essential that plans for a more robust approach to enforcement are supported by a programme of engagement, education, recruitment of and support to volunteers. The 'Love Where you Live' initiative has been developed for this purpose and includes a communications plan and dedicated branding.
- 2.5 Over the last 4 years, the Council's focus on environmental enforcement has reduced, both strategically and through changes to operational priorities within the teams. Many additional tasks, including dealing with statutory nuisance e.g. waste in gardens and noise nuisance, have been allocated to the teams. This has had a major impact on the Council's provision for adequately tackling environmental crime.
- 2.6 Nevertheless, it is very clear that public expectations and corporate and political priorities require the Council to revisit its approach and develop a strategy that impacts directly to reduce environmental crime. Although action to address this is not a statutory obligation, the Council's Improvement Plan and Corporate Plan address the need for safe, clean and cohesive communities. Tackling environmental crime is an essential part of this and whilst the Community Protection Team continues to take prosecutions against fly-tippers, there has been a decline in the number of Fixed Penalty Notices (FPNs) issued for littering and dog-fouling over the last 4 years.

3. Key Issues

- 3.1 The Community Protection Unit currently has 11 warden posts. These posts would ordinarily be the main resource responsible for the issuing of FPNs for environmental crime. However, following previous re-engineering of functions, the warden's work is now primarily geared towards tackling statutory nuisance e.g. noise and accumulations of waste in gardens etc. This work accounts for 1271 investigations so far this financial year.
- 3.2 Currently the total net cost of the Community Protection Unit is £1.041 million, which is apportioned across the range of statutory and non-statutory functions including dealing with statutory nuisance (including noise), private sector housing enforcement, public health enforcement, air quality, managing contaminated land and closed landfill sites.
- 3.3 £506,172 of this total budget comes from the Housing Revenue Account (HRA) and a further £130,000 is from the Public Health Grant. The remainder is from the Council's General Fund.
- 3.4 Of the 11 wardens posts already established, the HRA element amounts to £195,156 (with an additional £65,052 from the General Fund). Any changes to the operational priorities of these roles may potentially result in loss of funding due to the re-direction of operational focus required by the Council's Housing Team. In addition, the current budget pressures on the HRA mean this proportion of revenue may be reduced in the future, limiting activity even further.
- 3.5 Whilst the existing 11 wardens do not currently focus on issuing FPNs, they do issue them when offences are witnessed whilst undertaking other duties. The number of fines issued, and consequently income recovered, has varied over the last four years as detailed in the table below.

Fixed Penalty Type	2013	2014	2015	2016
Failure to Furnish Documents	6	1	3	2
Dog Fouling	6	27	14	11
Litter	70	31	29	172
Community Protection Notice	NA	NA	2	5
Fly-Tipping	NA	NA	NA	5
Total FPNs	82	59	48	195

4. Options considered and recommended proposal

- 4.1 Whilst the overriding priority is to influence and change the behaviours of residents and businesses towards environmental crime, increasing pride in the Borough and reducing the costs of street cleansing, the Council also needs to consider the financial implications of introducing any scheme and its likely impact on existing resources and service provision, particularly where resources are already stretched and further significant budget savings are required over the next 3 years.

4.2 Three options to deliver additional environmental crime enforcement to a level that would affect an influence on behaviours whilst also ensuring that there are no additional costs to the Council have been considered as follows:

4.3 Option 1 - Creation of a new 'cost-neutral' enviro-crime team

- The creation of a dedicated team to enable a focus on increasing enforcement activity including the issue of FPNs for littering, dog fouling and fly-tipping.
- Consideration of the range of options and costings for this option is dependent upon the scale of the team required. In order to achieve a 'break-even' budget position and to achieve the issuing of 3373 FPNs, 5 new Enforcement Officers would be required
- Requires recruitment of dedicated Enforcement Officers and a Supervisor
- Money raised from FPNs would be required to offset the costs of the team and the risk of not achieving the required level from fines would require continuous monitoring and managing. The Council would be required to carry the risk of creating a significant budget pressure should the required income from fines not be forthcoming
- Staff absence, including sickness, vacancies and annual leave will impact on the ability to realise enough income to pay for the service

4.4 Option 2 - Engagement of established service provider from the market

- This option requires the development of a specification to be competitively tendered through contract to an external partner
- The contractual arrangements would enable the Council to specify priorities both in terms of activity and location which the successful service provider would be contractually obliged to adhere to. This would provide for focus on hotspots and priority areas with resources to match the demand.
- A typical contract of this type allows for the FPN amount to be shared. For example, for every correctly issued and paid fine of £80, the Council would receive £40. All staffing costs, including vehicles, fuel, uniform and equipment are paid for by the service provider.
- Similar contracts exist within other Councils such as Barnsley and Doncaster which have been operating successfully:
 - Doncaster anticipates the issue of around 5,000 FPNs within the current year.
 - Similarly in Barnsley during 2015, 3,100 FPNs for littering were issued by an external service provider.
 - FPNs are issued in priority locations as required and are directed by the Council
 - Safeguards are written in to the contractual arrangements which ensure that the Council retains full control over the issuing of fines, locations to be patrolled, uniforms and all other public facing arrangements.
- The arrangements enable flexibility to draw in extra resources where necessary
- Full contract management arrangements will be in place to hold the service provider to account for any failures. Similarly it is anticipated that the Council would retain the control of the payment of fines and any further formal action such as prosecutions. Any additional staffing required to monitor the contract and administer fines, would be an additional cost to the Council.

4.5 Option 3 - Development of shared service provision with Doncaster Council utilising their existing contracted external service provider

- Given that Doncaster already operates successful environmental and parking enforcement schemes with an external service provider, there is potential to seek to utilise their existing arrangements by extending them cross-border to Rotherham for a 12 month pilot scheme.
- Arrangements would mirror those outlined at 4.4 of this report, however Rotherham would not directly contract the arrangements with the external provider; this would be overseen by the partner Council. A comprehensive Service Level Agreement between the Councils will be developed to effectively manage the service.
- The costs of this arrangement would need to be considered with the partner Council, however, it is expected that this arrangement would still provide a service at no additional cost for Rotherham in addition to the Council's aspirations of reducing environmental crime, influencing behaviours and reducing the costs of street cleansing and collecting & disposing of fly-tipped waste.
- Enforcement activity and associated arrangements would be established through a comprehensive Service Level Agreement between Councils.
- Rotherham Council would continue to oversee service provision to ensure that activity and outcomes reflect the need within the Borough.

4.6 Option 3 is the preferred option, however, it is acknowledged that work needs to be commenced to establish the feasibility of entering into a shared service with Doncaster Council utilising their existing contractual arrangements. This option will enable the pilot scheme to commence quickly without the need to go through a prolonged competitive tendering process. This will enable the Council to then consider the longer term delivery options moving forward.

4.7 Summary table of options

Option	Estimated number of FPNs	Cost Implications or Level of FPN's	Impact / Risks
Option 1 - Creation of a new 'cost-neutral' enviro-crime team	An example would be 3,373 per year (based on a team of 5 Enforcement Officers)	Zero (with potential for budget pressures)	<p>Risks of significant budget pressures if the team does not raise enough income or if income reduces over time.</p> <p>Potential to have limited impact across the Borough given the relatively low level of additional resource.</p> <p>Risk of negative impacts on income from sickness absence</p> <p>Risk of limited capacity to deliver a sustainable improvement and affect behaviour change.</p>
Option 2 - Engagement of an established service provider from the market	Estimated 5,000 per year	£140,000 (assuming 50% retention of fine amount from each fine and a 70% payment rate)	<p>Clear message that the Council is determined to tackle enviro-crime issues.</p> <p>Borough wide impact, with focused activity in targeted areas, directed by the Council.</p> <p>Flexible resource to meet the needs of the Borough.</p> <p>Risks around reductions in FPN numbers are retained by the contractor.</p> <p>Level of fines might vary year to</p>

			year dependent upon public awareness and behaviour changes
Option 3 - Negotiation of a shared service provision with neighbouring Councils	Estimated 5,000 per year	Exact details to be agreed with the partner Council with potential for income up to the same level as the option above i.e.£140,000 (based on 50% retention of fine and 70% payment rate).	<p>Clear message that the Council is determined to tackle enviro-crime issues.</p> <p>Borough wide impact, with focused activity in targeted areas</p> <p>Risks around reductions in FPN numbers are retained by the contractor.</p> <p>Level of service might vary year to year dependent upon public awareness and behaviour change</p> <p>Reduced setting up, procurement and contract monitoring costs and time.</p> <p>Learning and utilising best practice from the partner Council.</p>

5. Consultation

- 5.1 Consultation has taken place with the Lead Cabinet Member and early discussions have taken place with Doncaster Metropolitan Borough Council.

6. Timetable and Accountability for Implementing this Decision

- 6.1 If approved, the proposed timeline of development and implementation will be developed, although it is anticipated that service delivery will be in place by April 2017.
- 6.2 The Assistant Director for Community Safety and Street Scene will be responsible for the delivery and implementation of the proposal.

7. Financial Implications

- 7.1 The Council's Community Protection Unit has an annual revenue budget of £1.041m. Within the proposed budget savings for 2017/18 for the Regeneration and Environment Directorate, a saving of £100,000 has been put forward in respect of Enforcement, CCR – R&E 5. It is anticipated that, if approved, the recommended option will be sufficient to meet this savings target.
- 7.2 If the recommended option is approved, the exact financial details of the proposed shared service provision with Doncaster Council will be subject to negotiation. However, on the basis of the financial information provided within option 2, the engagement of an established service provider, it is considered that annual income of up to £140,000 could be achieved.

8. Legal Implications (including procurement)

- 8.1 Following approval to progress the recommended option, further work will be required to be undertaken by Rotherham MBC Legal Services to fully understand and negotiate the terms of the proposed arrangement to ensure that it is legally sound, accessible (for procurement purposes) and favourable to Rotherham MBC. A comprehensive Service Level Agreement between the Councils will be necessary to give full effect to the proposed shared service arrangement.
- 8.2 Sections 54, 55 and Part IV of the Environmental Protection Act 1990 together with associated regulations, outline enforcement activity in relation to dog fouling and littering offences. Vigilance will be necessary to ensure that legal process is maintained in accordance with the principles of the Council's General Enforcement Policy.
- 8.3 The Clean Neighbourhoods and Environment Act 2005, section 96 ("Use of fixed penalty receipts: higher tier authorities") and the Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2007 regulate what fixed penalty receipts may be spent on. As the receipts increase, the significance of those rules will increase. Rotherham MBC would need to remain "excellent", "good", "4 stars", "3 stars" or "2 stars" to continue to be allowed to use environmental FPN receipts for any functions of the authority.

8.4 As the Council would retain the control of prosecutions (when FPNs are not paid), additional legal resources may be required to deal with a potential increase in cases. Whilst fines imposed by courts go to Central Government, costs are often awarded to the Council by the Court for this purpose. There is also a Legal Officer within the Community Protection Team.

9. Human Resources Implications

9.1 These proposals are in addition to the existing staffing resources within the relevant functions and there are no planned staff reductions. There are no HR implications arising from these proposals.

10. Implications for Children and Young People and Vulnerable Adults

10.1 There are no direct implications for Children and Young People and Vulnerable Adults arising from this report.

11 Equalities and Human Rights Implications

11.1 There are no equalities and/or human rights implications anticipated arising from this report. The proposed enforcement would not discriminate against any residents or business.

12. Implications for Partners and Other Directorates

12.1 Early discussions with Doncaster Council have commenced and, following approval of the recommendation within this report, further work will be undertaken to progress the development of a shared-service approach within the scope of their existing contractual arrangements.

13. Risks and Mitigation

13.1 Failure to strengthen enforcement and ensure a strategic focus will expose the Council to frontline weaknesses in tackling environmental crime, with the consequent negative effects on the quality of life and environment for residents.

13.2 Failure to effectively address environmental crime issues presents a reputational risk to the Council for failing to tackle public priorities around environmental cleanliness.

13.3 Failure to adopt the provisions within the report will expose the Council to criticisms around consistency, fairness and proportionality.

14. Accountable Officer(s)

Karen Hanson Assistant Director, Community Safety and Street Scene
Damien Wilson Strategic Director, Regeneration and Environment

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<http://moderngov.rotherham.gov.uk/ieDocHome.aspx?Categories=>