

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	OPERATIONAL MANAGEMENT COMMITTEE	10 MARCH 2020	4

ENVIRONMENTAL ENFORCEMENT OPTIONS – PILOT SCHEME

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

A key priority for Fylde Council is to create clean, safe and healthy communities and to maintain high quality parks and open spaces. This means ensuring that the environment remains clean and free of litter and dog fouling. Unfortunately, despite a pro-active approach and the great work of many partners, there are continued challenges to achieving a clean borough, with some irresponsible individuals choosing to carryout anti-social behaviour such as littering, dropping cigarette butts and chewing gum, failing to pick up after dogs or letting dogs run out of control or off the lead in restricted areas. Councillors have asked Officers to investigate alternative means of combatting anti-social environmental crime through enforcement. Based on best practice elsewhere, and networking with other authorities, it has emerged that the private sector can complement the services of Local Authority Officers by offering a more targeted approach. District Enforcement is an organisation currently working collaboratively with several Lancashire districts to address environmental crime issues such as dog fouling, littering and other dog control measures under the Public Space Protection Orders, and delivering some great outcomes. The report recommends that Fylde enter into a 12-month pilot agreement with District Enforcement to deliver specialist enforcement services to complement and enhance the level of targeted enforcement currently possible within existing resources.

RECOMMENDATIONS

1. That Members approve a 12-month environmental enforcement trial with District Enforcement ('District'), on a cost neutral basis and with no financial risk to the council;
2. That delegated authority for fully trained staff of District be given to issue Fixed Penalty Notices (FPNs) on behalf of the council for the duration of the agreement;
3. To increase the littering fine from £75 to £100, with a discounted option of £80 if the fine is paid within 10 days;
4. That the agreement is dealt with under the procedure for exempt contracts under contract procurement rule 1 on the grounds that the value of the service does not exceed £189,330 and will be awarded on Contracts Finder;
5. Delegate the final detail of the pilot arrangements to the Director of Resources in consultation with the Head of Health and Environment and the Environmental Health Manager who will monitor the pilot and report performance to this committee.

SUMMARY OF PREVIOUS DECISIONS

N/A

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	√
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

REPORT

1. Creating clean, safe and healthy communities and maintaining high quality parks and open spaces is a priority for the council. This means ensuring that the environment remains clean and free of litter and dog fouling. The Operational Services and Parks staff do excellent work with partners in keeping the Borough clean, with regular compliments received from local residents and visitors to the area.
2. There are over 700 litter bins located across the borough emptied daily throughout the year, with increased frequency during the warmer weather and events season. There are also 40 bins located on the beach to help people to dispose of their waste responsibly. In addition to the bins, there is a team of mobile litter pickers and street sweepers operating across the Borough.
3. The service also responds reactively to reports of litter and dog fouling to ensure that the borough remains clean and tidy whilst the Dog Wardens inform, educate and enforce dog related enviro crimes under the Public Space Protection Orders.
4. Unfortunately, there are continued challenges to achieving a clean borough, with some irresponsible individuals choosing to carryout anti-social behaviour such as littering, dropping cigarette butts and chewing gum, failing to pick up after dogs or letting dogs run out of control or off the lead in restricted areas.
5. These types of environmental crimes are emotive and cause concern for residents and businesses alike, with street cleanliness and irresponsible dog ownership in the local community common themes on social media platforms. The council has taken a supportive, awareness and educational approach delivering campaigns aimed at highlighting environmental crimes and encourage prevention through responsible waste disposal and dog ownership, to work with partners in helping reduce the instances of environmental crime.
6. Sustaining the standard of cleanliness in all areas of the Borough to the level the customer wants to see cannot be achieved within current resources while those who choose not to dispose of litter properly or pick up after dogs remain determined to do so. Councillors have asked officers to investigate alternative means of combatting anti-social enviro crimes, with an emphasis on enforcement.
7. Several local authorities have addressed this issue by working in partnership with private sector organisations that specialise in enviro crime enforcement. A national organisation called District Enforcement (District) currently works collaboratively with several Lancashire districts providing targeted enforcement, the outcomes have been successful in reducing the number of enviro crime through an effective deterrent. District have well trained professional experienced officers who engage with communities whilst on patrol to tackle enviro crime with the same commitment to achieve a cleaner environment as the council.
8. District's enforcement model is based on issuing 'on the spot' Fixed Penalty Notices (FPN's) for agreed environmental offences with an approximate 8,500 FPN's issued per annum across all current contracts with an average 75% payment rate. This is recognised across the industry as an extremely successful payment rate.
9. The basis for District's FPN model is:

- a. Robust leadership - all teams have a Sector Leader, Team Leader and Senior Enforcement Officer
 - b. Highly trained staff that are solely employed for environmental enforcement
 - c. An agreed deployment strategy ensuring all public/Member complaints have been investigated and “hot spot” areas patrolled
 - d. All FPNs are issued on the spot and are accompanied by high definition body worn camera footage to support the case and safety of officers
 - e. Increased payment rates owing to their ability to obtain accurate offender details at the ‘point of issue’ by contacting the District Ops Support Team. The Ops Support Team has access to the Lexus Nexis System, which can search up to 160 open source databases e.g. electoral role and credit agency records
 - f. Robust Processes – ensuring that non-paying offenders receive reminder letters on day 14 and day 21. All representations are investigated and closed in a timely manner and non-paying offenders are prosecuted if the FPN has not been paid
 - g. Robust Quality Assurance processes for every step of the FPN process
 - h. Clear transparency of all systems giving the Council open access to all FPNs issued, letters sent, representations received and responses, prosecution files and officer witness statements along with body worn camera footage for all issued FPNs.
10. District deliver an “end to end” cost neutral environmental crime service funded through the income from the FPN’s with no upfront payment by the council. District will dedicate 75% of all patrolling hours to the core offences of littering, vehicle litter, dog fouling and the enforcement of Public Space Protection Orders. The remaining 25% will be dedicated to specific environmental crime issues including: increased parks and green space patrols; investigating dog fouling complaints; alley-way dumping; fly tipping; engaging with the public; carrying out surveys; and presenting to local schools.
 11. District were invited to an elected member briefing session in February to present information about the organisation, their services, their methodology and their successes. This included the opportunity for members to ask any questions about the service, the company or the specific proposal tailored to meet the needs of this council. The briefing was well attended by members and feedback received following the session indicated that the majority of members present would support a 12-month pilot agreement with District.
 12. The proposed model for Fylde is cost neutral for the authority and offers least risk, District would collect and retain all revenue from the FPN’s to support the operation. The objective for the council is not income generation but to challenge inappropriate behaviour by the minority of people and to promote a clean, green borough.
 13. The model is based on a forecasted payment rate of 75% with the council’s current FPN fine for littering set at £75; dog fouling and other dog control offences set at £100 with the introduction of the Public Space Protection Orders in October 2017, without discount for early payment. These fees have been reviewed in comparison to other local authorities and best practice in terms of payment options. In 2019 the maximum fine for littering increased to £150, in recognition that littering is a blight and the fine should reflect the scale of the problem. It is proposed the littering fine is increased to £100, with a discounted option of £80 if the fine is paid within 10 days of being issued.
 14. Cases of non-payment will be taken for prosecution because the actions are criminal offences, District will be entitled to claim back costs associated with the enforcement work and the offender would get a criminal record. District would produce the prosecution files and the council would take the cases to Court, the District officers would undertake the whole process and handle complaints; with council officers undertaking audit reviews and spot checks.
 15. District will dedicate the following resource to cover the borough, 10 hours per day, 7 days per week – total patrolling hours 200 per week which equates to 10,400 hours per year:
 - 1 x Team Leader (with experience from the Wyre contract)

- 2 x Enforcement Officers
- 2 x Mobile officers – to provide additional cover for busy days and big events
- 7 days a week remote administration (7am to 7pm).

All employees undergo satisfactory right to work in the UK checks, enhanced DBS Clearance and other probity Legislative checks consistent with the recruitment practices in place at Fylde.

16. Officers will patrol all areas of the borough, guided by intelligence from council officers to address hot spot areas, respond to complaints from customers and target areas of heavy footfall; with a minimum of 25% of their time spent in parks and open spaces.
17. District are keen to work with the local community and recognise that in Fylde there are many voluntary and community groups that play an active role in keeping the local area clean and green, they will implement engagement and education initiatives such as 'Bin it to win it' and the creation of a small social value fund to support local groups. District will provide additional specialist training to council officers including enforcement training to frontline officers and undertake joint initiatives to tackle issues in hot spot areas.
18. District have committed to offering other back office support with access to systems and equipment; which will reduce the administrative burden on council officers creating capacity redirect attentions into the community being proactive and investigating fly tipping and other offences.
19. District would be seeking to work with partner agencies to address offences by young people under the age of 18 years (primarily 16 to 17-year olds) to give them an option of paying the fine or attending an organised litterpick in their community. They would seek consent from parents in advance through a home visit. The parents of young offenders aged 15 years and below will receive a letter explaining that their child has dropped litter and the consequences that may follow in the future if their behaviour doesn't change.
20. The company operates an education to schools' campaign and the management team will be working with Fylde schools to deliver presentations to students, raising awareness of the consequences of enviro-crimes.
21. The pilot, if approved, would run for a period of 12 months after which a full review of the service will be undertaken to inform this committee whether a further agreement should be entered into. The pilot can be implemented within 6 to 10 weeks of approval, a termination notice period for both parties, at any point in the 12-month pilot, will be 60 days.
22. District are externally accredited to ISO9001 quality management standards which ensures standard operating procedures are in place to govern how they deliver the service specification. They are Safe Contractor certified with internal procedures designed to provide exceptional levels of service across all aspects of the company. District will meet all requirements of the General Data Protection Regulations and appropriate Data Sharing Agreements will be agreed.
23. District have completed their own Data Protection Impact Assessment (DPIA) with regards to the use of Body Worn Video (BWV) which has been independently assessed as compliant with the Surveillance Camera Commissioner's Code of Practice. District has indicated that the Commissioner is therefore satisfied the use of BWV is both lawful and legitimate with adequate controls in place. Further information with regards to their accreditation is available on the Gov.uk website.
24. If approval is granted for the pilot scheme to go ahead the authority, the data controller, will need to conduct our own DPIA as the data from the cameras will be processed for our purposes. District will be the data processor and must process the data in accordance with our direction, ensuring compliance with GDPR.
25. It is proposed that the pilot agreement is dealt with under the procedure for exempt contracts under contract procurement rule 1 as follows:

1.2. These rules shall not apply or may be varied where or to the extent that:

- I. The Council or the relevant Committee so resolves;

This option may be chosen providing that:

- The value of the service do not exceed £189,330 (OJEU Threshold for supply and service contracts) to ensure compliance with the Public Contract Regulations 2015;

- The contract is awarded on Contracts Finder

26. Members of the Operational Management Committee are asked to debate and consider the following Officer recommendations:

1. That Members approve the 12-month environmental enforcement trial with District Enforcement ('District'), on a cost neutral basis and with no financial risk to the council;
2. That delegated authority for fully trained staff of District be given to issue Fixed Penalty Notices (FPNs) on behalf of the council for the duration of the agreement;
3. Increase the littering fine from £75 to £100, with a discounted option of £80 for littering if paid within 10 days;
4. That the agreement is dealt with under the procedure for exempt contracts under contract procurement rule 1 on the grounds that the value of the service does not exceed £189,330 and will be awarded on Contracts Finder;
5. Delegate the final details of the pilot to the Director of Resources in consultation with the Head of Health and Environment and the Environmental Health Manager.

IMPLICATIONS	
Finance	The proposed pilot scheme can be delivered at no cost to the Council. The enforcement activity would be undertaken by the external partner, District Enforcement, who will retain the income from the fines that are levied to offset the costs of that activity.
Legal	Local Authorities are empowered under the Environmental Protection Act 1990: Section 88 to operate Fixed Penalty Schemes for littering and The Anti-Social Behaviour, Crime and Policing Act 2014 for breaches of Public Space Protection Orders. The council has the power to authorise a Contractor to undertake these duties on their behalf.
Community Safety	Increased environmental enforcement to tackle low level ASB and enviro-crime will have a positive impact
Human Rights and Equalities	No implications
Sustainability and Environmental Impact	Increased environmental enforcement to tackle low level ASB and enviro-crime will have a positive impact
Health & Safety and Risk Management	No implications

LEAD AUTHOR	CONTACT DETAILS	DATE
Kathy Winstanley	Kathy.winstanley@fylde.gov.uk ; 01253 658634	20 th February 2020

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
N/A		