

CABINET

Date of Meeting	Tuesday, 26 th September 2017
Report Subject	Revised Environmental Enforcement And Car Parking Arrangements
Cabinet Member	Cabinet Member for Streetscene and Countryside
Report Author	Chief Officer (Streetscene & Transportation)
Type of Report	Strategic & Operational

EXECUTIVE SUMMARY

The Council's Enforcement Officers, within the Streetscene and Transportation Portfolio, currently provides both environmental and on/off-street civil parking enforcement services on behalf of the Council.

In May 2016, Cabinet approved that the Council should enter a formal agreement with a specialist private partner (Kingdom) to undertake environmental enforcement activities of low level crimes such as dog fouling and littering in the County on a 12 month pilot trial basis.

The contract has proven to be successful and a total of 4,726 Fixed Penalty Notices (FPN's) have been issued in the first 12 months, July 16 to June 17, compared to just 195 issued in the previous year when enforcement activity was undertaken by the Council's own in house enforcement team. This approach has had a beneficial impact on the cleanliness of our town centres and open spaces demonstrated by our improved performance measured through national audits undertaken by Keep Wales Tidy.

Following the roll out of parking charges across the County in 2015, the in-house team have concentrated their efforts managing car park enforcement along with dealing with other environmental crime such as fly tipping and abandoned vehicles.

This report reviews the best option for the service moving forward, taking into account the range of enforcement activities it is required to deliver. The report makes a recommendation to engage a Business Partner to undertake the enforcement of low level environmental crime, dog control and car parking offences on behalf of the Council. The enforcement of fly tipping and abandoned vehicles will remain with the Council along with the enforcement of black wheel bin side waste.

RECOMMENDATIONS

1	That Cabinet approves the procurement of a single Business Partner on a short term 2 year contract (with an option to extend based on performance) to undertake the enforcement of low level environmental crime, dog control and car parking offences on behalf of the Council.
2	That Cabinet recommends Option 1 of Appendix 1 as the preferred method of managing the enforcement of side waste

REPORT DETAILS

1.00	BACKGROUND TO ENVIRONMENTAL AND PARKING ENFORCEMENT LEGISLATION
1.01	Local Authorities are empowered under the Environmental Protection Act 1990 (Section 87/88) and Clean Neighbourhoods and Environmental Act 2005 (Sections 55-60) to issue Fixed Penalty Notices (FPN's) for dealing quickly and effectively with low level environmental offending, such as littering and failing to remove dog waste. The fixed penalty is set at £75.00 and this is retained by the issuing Local Authority and can be used to supplement further enforcement activities and for the benefit of the service for which the FPN was issued.
1.02	Local Authorities are also empowered under Road Traffic Regulation Act 1994 and Traffic Management Act 2004 to issue Penalty Charge Notices (PCN's) for dealing with both on street and off street parking offences. The PCN is currently fixed at £50 or £70 (reducing to £25 or £50 if paid within 14 days). The Local Authority has the right to retain the income from PCN'S to supplement their enforcement activity.
1.03	<p>The Antisocial Behaviour, Crime and Policing Act 2014 will see the introduction of Public Space Protection Orders in October this year to further support dog control enforcement.</p> <p>Following the decision of Cabinet in February 2017 to agree the implementation, subject to consultation, of a Dog Control Public Space Protection Order (PSPO), the intention is to replace the existing dog control order with a new PSPO requiring dog owners to:</p> <ol style="list-style-type: none">1. Remove their dogs' waste from all public places within Flintshire,2. Have a means on their person to pick up dog waste,3. Place their dog on a lead when asked by an authorised officer.4. Prohibit dogs from entering the playing areas of public marked sports pitches, formal recreation areas including but not exclusively bowling greens and tennis courts, all areas within school grounds, equipped children's play areas.5.Keep their dog on a lead in cemeteries <p>An authorised officer could issue a fixed penalty notice of £75 to anyone he or she believes has committed an offence in breach of an implemented PSPO.</p>

1.04	<p>Under the terms of the Environmental Protection Act, 1990, Flintshire County Council (the “Council”) is classed as a Waste Collection and Disposal Authority, and as such has a statutory duty to collect household waste from all domestic properties in the County. Under Section 46(4) of the Act, the Council has specific powers to stipulate:</p> <ul style="list-style-type: none"> • The size and type of the collection receptacle(s); • Where the receptacle(s) must be placed for the purpose of collecting and emptying; • The waste types which may or may not be placed within each of the receptacle(s). <p>Under the Act the Council has specific powers to issue FPN’s to residents who do not present their waste in the correct receptacles. i.e. the placing of waste in plastic bags and not in the bin provided by the Council.</p>
1.05	<p>Both FPN’s and PCN’s are not fines, however payment of the charge discharges a person’s liability to conviction for the offence for which the FPN/PCN was issued. It does not constitute an admission of guilt, but removes the possibility of the creation of a record of criminal conviction for the indiscretion. It is the current Council policy to institute legal proceedings against an individual, where FPN/PCN’s are not paid.</p>
1.06	<p>On the formation of the Streetscene and Transportation portfolio in April 2015 two areas of the service (parking management and environmental crime) were amalgamated to create the Civil Parking and Environmental Enforcement team. At the time there were a total of 7 officers whose roles were combined to deliver enforcement activity for environmental crimes such as littering, dog fouling, abandoned vehicles and fly tipping as well as civil parking enforcement. A manager was also recruited to oversee the activity of the team but also to maintain responsibility for the strategic and operational management and maintenance of the Council’s car parking service, including the introduction of car parking charges across Flintshire.</p>
1.07	<p>The roll out of car parking charges across Flintshire has been a priority for the manager and the team over the last 2 years and as each car park has come into force, the resources within the service have obviously become stretched with increased patrolling and enforcement activity of both on and off street parking. Although our own enforcement officers were empowered, when on patrol, to enforce both environmental crime and parking offences the number of FPN’s relating to environmental crimes issued by the team dropped. This was at a time when the Council had introduced a Zero tolerance policy on littering, dog fouling and fly tipping.</p>
1.08	<p>To address this, Cabinet approved a report in May 2016 to enter into a formal contract with a specialist private partner (Kingdom) to undertake environmental enforcement activity in the County on a 12 month pilot. This contract was introduced to compliment the activity of our own enforcement officers who were instructed to continue to carry out environmental enforcement activity alongside car parking duties.</p>
1.09	<p>The pilot has, so far, proven to be successful with a total of 4,726 FPN’s issued, for environmental crimes, by Kingdom officers in the first 12 months compared to just 195 issued by FCC staff in the same time period the year</p>

	previous, see table 1. This has sent a positive message to the residents of Flintshire who can see that those who choose to litter are being dealt with robustly and the process has seen an improvement in the cleanliness of the town centre areas.																		
1.10	Under the 12 month pilot agreement, Kingdom have carried out all enforcement activities inclusive of administration at zero cost to the Council. They retain 85% of any income generated from the FPN's with the remaining 15% provided to the Council. The 15% income has been used to fund additional enforcement activity in targeting dog fouling hot spots using a combination of Kingdom and FCC officers.																		
1.11	Throughout the pilot, Kingdom have been responsible for all back office systems required to deliver the service, including collecting the payments and building prosecution packs in readiness for formal action against those people who choose not to pay the FPN.																		
1.12	All interactions with the public have been captured on body worn CCTV allowing the Council to review any complaints against the officers and despite the significant increase in FPN's issued, Council officers have only had to deal with a small number of complaints from the public in relation to Kingdom officer's conduct.																		
1.13	<p>Table 1 below shows the number of FPN's issued by Kingdom in the first 6 months of the contract compared to the same 6 months in the previous year.</p> <p>TABLE 1 - FPN Issued (Kingdom)</p> <table border="1"> <thead> <tr> <th></th> <th>July – April 2016</th> <th>July – April 2017</th> </tr> </thead> <tbody> <tr> <td>Litter Type</td> <td>Litter Type Count</td> <td>Litter Type Count</td> </tr> <tr> <td>Litter Dep-Cigarette</td> <td>165</td> <td>4330</td> </tr> <tr> <td>Dog Control-Fouling</td> <td>23</td> <td>100</td> </tr> <tr> <td>Litter Dep-Other</td> <td>7</td> <td>296</td> </tr> <tr> <td>Total :</td> <td>195</td> <td>4726</td> </tr> </tbody> </table>		July – April 2016	July – April 2017	Litter Type	Litter Type Count	Litter Type Count	Litter Dep-Cigarette	165	4330	Dog Control-Fouling	23	100	Litter Dep-Other	7	296	Total :	195	4726
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1.14	The pilot clearly shows that by engaging an organisation who specialise in low level environmental enforcement activity, directly effects the number of FPN's issued and this also impacts directly on the cleanliness of the County. In order to gain from the expertise of these organisations across a wider enforcement area, it is recommended therefore that a single contract is procured for all enforcement activities of low level environmental crime and on/off street parking offences, on behalf of the Council.																		
1.15	Whilst the legislation to carry out enforcement of low level environmental crime is different to that of parking enforcement the, operational and administrative aspects are very similar. Officers are required to patrol designated sites, such as car park and town centre high streets and enforce against anyone who is acting in contravention of the relevant legislation. The back office support in dealing with the administration of the FPN's, including collecting the payments and building prosecution packs in readiness for formal action against those people who choose not to pay the FPN's along with fielding questions, complaints and appeals, is the same for PCN's																		

	regardless of legislation.
1.16	In July 2017 the Council's Cabinet approved a report introducing changes to the Council's waste and recycling collection service. Included in the report was a commitment to enforce the problem of placing side waste alongside the black wheel bin collections. Side waste is presented by a minority of residents and those that present it are often not recycling, coupled with the environmental problems that side waste causes when exposed to the elements when bags are split or ripped causing waste to spill onto the streets.
1.17	Residents that place side waste with their wheel bins face being issued with an FPN if they ignore the advice and support that the Council offers in helping them recycle. Issuing an FPN for this type of offence is not as straight forward as issuing an FPN for littering or dog fouling offences. The process will involve the Council providing advice and support along with a warning for any first time offenders. If residents choose to ignore this support they then face being issued with an FPN. This process will be more time consuming and will require a level of evidence gathering greater than that needed for low level offences. Appendix 1 provides detail of the 2 proposed options to deal with side waste enforcement.
1.18	The enforcement of more significant environmental crime such as fly tipping and abandoned vehicles also requires more in depth evidence gathering and is much more time consuming for the environmental officers who carry this out. It is proposed to continue enforcing these crimes along with side waste enforcement with a small team of Council officers who are specifically trained in gathering evidence under PACE (Police and Criminal Evidence). This team will also occasionally work alongside the service provider, appointed to deal with low level environmental crimes and parking, to provide resilience in all aspects of enforcement.
1.19	The outsourcing of the low level environmental enforcement will impact on the existing enforcement team as there will be a requirement for some of them to transfer, under the TUPE Regulations 2014, to a private contractor in order to deliver all elements of low level environmental and parking enforcement on behalf of the Council. The current car parking and enforcement management role will be removed from the existing structure and be replaced by 'client' officer role responsible for managing the outsourced contract along with a small team of Council enforcement officers to deal with fly tipping, abandoned vehicles and side waste along with managing the other elements of the Council's car parking service.
1.20	The contract will include clear guidelines which will specify the principles on which the contract will be managed and operated. This will include a requirement for the company to provide a minimum level of service for the enforcement of dog fouling and dog control which will prevent the company concentrating on car parking and littering offences which can be seen by some as an 'easy target' for enforcement.
1.21	The contract will be tendered on a basis of a 'no fee' financial model, with all costs associated with provision of the service met from the income generated by the issuing and collection of FPN's. The contract will, in addition, provide an opportunity for the provider to provide the Council with

	a fixed percentage of the money raised through the FPN's/PCN's issued. Any income provided will be used to fund the client role and in house enforcement team responsible for managing the contract on behalf of the Council.
1.22	The appointed contractor will also be responsible for the back office systems required to deliver the service, including collecting the payments and building prosecution packs in readiness for formal action against those people who choose not to pay the FPN. The administration for PCNs issued by Flintshire is currently managed by the Wales Penalty Processing Partnership (WPPP) from payment, appeals to cases for tribunal. We have the option to continue with this service provided by WPPP and include this within the contract agreement or to offer this as part of the new enforcement contract.
1.23	To ensure the contract is delivered in line with the specification, the successful contractor will operate from the Council's Alltami Depot and have regular contact with the appointed client officer, responsible for managing the contract. The contractor will wear FCC uniforms and each will carry body mounted CCTV cameras to record all public contact.
1.24	The Council will appoint a senior officer who will review any appeals in relation to the issuing of any FPN/PCN to ensure that the penalty notice has been issued appropriately. The conduct of the officers employed by the contractor will be thoroughly investigated by the Council's appointed officer.
1.25	The contract will contain a requirement of the contractor to deliver regular communication campaigns to ensure that the public are aware of the Council's policy towards environmental and parking offences.
1.26	As the Council expands its enforcement options, additional duties may be required to add to the contract to address issues such as alley way dumping and additional PSPO enforcement activities.
1.27	The Council currently employs 5 full time enforcement officers and Kingdom have currently engaged a further 6 full time officers (inclusive of back office support) to deliver environmental crime enforcement within Flintshire all of whom work from Alltami depot.

2.00	RESOURCE IMPLICATIONS
2.01	The outsourcing of all low level environmental enforcement will impact on the existing enforcement team (5 FTE'S) as there will be a requirement for up to 3 of them to transfer, under the TUPE Regulations 2014, with the contract in order to deliver all elements of low level environmental crime, dog control and parking enforcement on behalf of the Council. The current car parking and enforcement management role will be removed from the existing structure and be replaced by 'client' officer role responsible for managing the outsourced contract, managing a small team of in house enforcement officers along with managing the other elements of the Council's car parking service.
2.02	There are no negative financial issues relating to this proposal. The contract

	will be tendered on the basis of a 'no fee' financial model with all costs associated with provision of the service met through the issuing and collection of FPN's and at the provider's risk. The contract will also provide tenderers with an option to provide the Council with a fixed percentage of the money raised through the FPN's/PCN's issued, although this is not guaranteed. There will be a loss of income from PCN fines but this will be compensated from the savings generated from the transfer of up to 3 current employees.
2.03	The issuing of FPN's and PCN's is not intended to be an income generation exercise and the recovery of payments of FPN's levied is required by law to remain within the service area and for the benefit of the services provided.
2.04	In order to provide a similar level of enforcement but utilise Council staff, there would be a requirement to recruit an additional 5 enforcement officers and additional back office support to deal with the additional work loads. In order that the enforcement role then continued to be 'cost neutral' the team would be required to at least match the number of tickets issued by the current provided each year.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	Consultation with existing staff will be required if approval is given to engage a Business Partner for the operations in future.
3.02	Consultation with relevant Unions will be required.
3.03	Consultation has been undertaken with the Cabinet Member for Streetscene and Transportation.
3.04	No equality implications have been identified resulting from this proposal as there are no exceptions made within legislation concerning the enforcement of environmental crime or Civil Parking.

4.00	RISK MANAGEMENT
4.01	The most significant risk to the Council is likely to be public perceptions resulting from a more proactive approach to the enforcement of parking, fly tipping, littering and dog fouling offences.
4.02	The contract will be subject to regular monitoring by an appointed 'Client' officer who will oversee the performance of the contractor along with other duties relating to the management of the car parking service. The contract will have a review period at 2 years and could be extended for a further 2 years based on performance.
4.03	The contract will contain a requirement of the contractor to deliver regular communication campaigns to ensure that the public are aware of the Councils policy towards environmental and parking offences.

5.00	APPENDICES
5.01	Appendix 1 – Options for Side waste enforcement

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Contact Officer: Stephen O Jones Telephone: 01352 704700 E-mail: stephen.o.jones@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	FPN - Fixed Penalty Notices PCN - Penalty Charge Notice