

CABINET	
Date of Meeting	Tuesday, 16 th April 2019
Report Subject	Environmental Enforcement
Cabinet Member	Cabinet Member for Streetscene and Countryside
Report Author	Chief Officer (Streetscene & Transportation)
Type of Report	Strategic

EXECUTIVE SUMMARY

Following the recent review of the Council's Environmental Enforcement Service, the Council's own Enforcement Officers have resumed responsibility for the enforcement of all low level environmental crimes, such as littering and dog control.

During the review Cabinet requested a refresh of the protocol for issuing Fixed Penalty Notices and particularly the zero tolerance approach previously adopted by the Council's Enforcement teams. This report provides clarity on the approach to enforcement activities in future.

During the review, the Environment Overview and Scrutiny Committee recommended that consideration should be given for Town and Community Council's to fund additional Enforcement Officers within their area. This report recommends an approach to these Council's to determine the potential interest and sustainability of this arrangement.

RECOMMENDATIONS

1.	That Cabinet approves the protocol detailed within this report for low level environmental crime offences and the issue of Fixed Penalty Notices for littering and dog control offences.
2.	That Cabinet approves offering Town and Community Council's the opportunity to support additional Enforcement Officers in their own areas.

REPORT DETAILS

1.00	BACKGROUND
1.01	Local Authorities are empowered under the Environmental Protection Act 1990 (Section 87/88) and the Anti-social Behaviour, Crime and Policing Act 2014 to issue Fixed Penalty Notice's (FPN's) for dealing quickly and effectively with low level environmental offending, such as littering or dog fouling. Under section 87 of the Environmental Protection Act 1990 it is an offence to throw down, drop or otherwise deposit, and then intentionally leave litter.
1.02	In 2013 the Council adopted a zero tolerance approach against individuals either witnessed or reported to be dropping litter on Council land or public open space. In May 2016, Cabinet approved that the Council should enter a formal agreement with a specialist private partner (Kingdom) to undertake environmental enforcement activities against low level crimes, such as littering however, in August 2018 Kingdom made the commercial decision to withdraw their services from Flintshire. In October 2018, Cabinet approved an in-house enforcement delivery model, with all car parking and environmental enforcement activities to be undertaken by Flintshire County Council's own Enforcement Officers.
1.03	In October 2018, Cabinet also requested a review of the protocol for the issuing of FPN's for littering offences and particularly the zero tolerance approach, previously adopted both by the Council's and Kingdom Enforcement Officers.
1.04	Littering offences are dealt with by the issue of an FPN which would eventually result in prosecution, if the individual chose not to make the required payment, within the prescribed period. A FPN is not a fine but payment of the penalty by the recipient discharging their liability to prosecution for the offence for which the FPN was issued. It does not constitute an admission of guilt, but removes the possibility of the creation of a record of criminal conviction.
1.05	Previously the Council has imposed the strict implementation of a zero tolerance approach to littering which has been applied across the County. Those who deliberately litter should expect to be punished if caught, and this review of the Council's policy sets out to clarify the Council's approach. It does not set out to diminish the jurisdiction of the Enforcement Officer or devalue the impact environmental crime has on our communities.
1.06	An FPN may only be issued where an Enforcement Officer has reason to believe a person has committed an offence and there is sufficient and appropriate evidence to support a prosecution in court, should the FPN go unpaid. For example, if an individual is deemed to have dropped litter deliberately and walked away (5 metres from litter as a guide) then enforcement action will be taken, if the individual has dropped the litter and not walked away, they will be given the opportunity to pick up and dispose of the waste appropriately. Accidental littering, such as items falling out of

	pockets will not be dealt with by means of an FPN.
1.07	The Council will rely upon the professional judgement of its Enforcement Officers to operate within the broad guidelines of the policy and to exercise a balance between education and enforcement, with the approach being that the Council will carry out the appropriate enforcement action against those who intentionally litter. This approach ensures compliance with legislation.
1.08	Dog control patrols continue to take place in public areas, including areas subject to a Public Open Space Order (PSPO), and this includes our Officers carrying out plain clothes patrols. The level of FPN's issued remains low, however Officers are talking to all dog walkers they encounter on their patrols, providing education in relation to exclusion areas and means of disposing of dog waste appropriately.
1.09	On the formation of the Streetscene and Transportation portfolio in April 2015, two areas of the service (parking management and environmental crime) were merged to create the Civil Parking and Environmental Enforcement team. Currently there are 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. Discussions are taking place with a neighbouring authority to potentially share some back office functions. If this develops and results in back office staff savings, funds may be released to increase the number of frontline Officers deployed on enforcement activity.
1.10	<p>Flintshire County Council's Enforcement Officers are responsible for patrolling across the county and this is scheduled to ensure all areas receive a reasonable level of enforcement presence. A daily presence in all areas cannot be guaranteed, due to the number of towns and villages and public car parks for patrol and the enforcement areas covered by the team which include:</p> <ul style="list-style-type: none"> • Littering • Dog fouling • Car park management • On road parking enforcement • Fly tipping • Side waste enforcement • Abandoned car removal
1.11	Following the Overview and Scrutiny Committee meeting on 27 November 2018 a recommendation was put forward to consider the funding of additional Enforcement Officers by Town and Community Council's.
1.12	To assess the level of interest in the proposal, the Council will contact all Town and Community Council's and offer the opportunity to fund additional Officer time in their wards. The Town and Community Council's will be given the opportunity to fund Officers at an agreed daily rate which will take into account that all revenue generated through the Fixed Penalty Notices and Penalty Charge Notices will be retained by the County Council. The level of time each of the Officers will be available per town/village will be based upon

	availability and will be proportionate to the number of Council's investing into the scheme.
1.13	Council's will be encouraged to outline their areas of concern in advance of the additional presence, and service will provide regular feedback following the funded presence.
1.14	The Officers will work to the Authority's policies and procedures and the funding of an additional enforcement presence will not affect the existing rotas and the current level of presence. Following the initial approach to Town and Community Council's an exercise will take place to determine the sustainability of a scheme, and consideration will be given as to whether the project can be implemented with existing staffing numbers, or whether additional Officers will need to be recruited.
1.15	Following a request from Environment Overview and Scrutiny Committee, details of patrol areas and the number of penalty tickets issued will be distributed to local members monthly, if requested and the information will form part of future performance reporting.

2.00	RESOURCE IMPLICATIONS
2.01	All existing Officers are budgeted within the Streetscene and Transportation portfolio
2.02	The service has an income target from the PCN or FPN income which requires a fixed number of tickets to be issued each year. The income level is set at previous year average ticket levels.
2.03	<p>The issuing of FPN's is not intended to be an income generation exercise and the recovery of payments from FPN's is required by law to remain within the service area for the benefit of the services provided.</p> <p>During the period when low level environmental offences were enforced by an external partner (Kingdom), an income target was set at £32,000 per annum for the service. Following the recent Cabinet approval to enforce all low level environmental offences using in-house officers, the income target has been reset at £20,000 per annum, this equates to 266 FPN's per year or approximately 22 FPN's per month. There are no monthly targets set for officers and whilst the number of patrols remain constant throughout the year, the number of FPN's issued will obviously vary each month. Officer's shift-patterns and start/finish times are amended over the summer months to allow for earlier and later shifts, to coincide with intelligence or information relating to continuing or recurring issues (particularly dog fouling offences).</p> <p>The level of FPN's and PCN's issued by the enforcement officers will be reviewed monthly through regular team meetings and any fluctuation from the budgeted target will be monitored and reported through the budget monitoring process. This will be mindful of the confirmed approach towards littering with intent, and also includes consideration of the time spent by officers on engagement and education activities, as they go about their daily</p>

	<p>duties. Clearly, if environmental crime is witnessed (or can be proven, in the case of fly-tipping) then FPN's will be issued and this is regardless of whether budgetary targets have already been achieved or not.</p> <p>The projected income figures reflects the other duties undertaken by the Enforcement Team, including on and off-street parking enforcement and the recently implemented policy, allowing Flintshire's Enforcement Team to issue FPN's for small scale fly-tipping offences. Car parking enforcement income is not included in these figures.</p>
--	---

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	With Cabinet Member.
3.02	With Environment Overview and Scrutiny Committee – April 2019.
3.03	Required with Town and Community Councils.

4.00	RISK MANAGEMENT
4.01	A full EIA will be completed on the chosen option before introducing the new arrangements

5.00	APPENDICES
5.01	None.

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

7.00	GLOSSARY OF TERMS
7.01	<p>FPN - Fixed Penalty Notice PCN – Penalty Charge Notice</p>