

28TH APRIL, 2020

KEY DECISION? No

REVIEW OF LITTER ENFORCEMENT PILOT SCHEME

SUMMARY AND RECOMMENDATIONS:

Overview and reasons for the course of action:

To update Cabinet on the outcomes of the litter and dog fouling enforcement trial operated by East Hampshire District Council (EHDC) and to seek approval to delegate these functions to East Hampshire District Council on an ongoing basis.

Recommendation:

Cabinet is recommended to:

- i) seek a contractual arrangement with EHDC for the provision of the enforcement services for littering and dog fouling for up to a five-year period; and
- ii) delegate authority to the Head of Operational Services, in consultation with the Corporate Manager - Legal Services and the Operational Services Portfolio Holder, to re-negotiate the contract with EHDC to include provision of the non-contested hearings with the courts and delegate these functions to EHDC.

1. INTRODUCTION

- 1.1. Following Cabinet approval on 6th February 2018, to ensure a cleaner environment the Council agreed to implement a one-year litter and dog fouling enforcement Agency agreement with East Hampshire District Council (EHDC). Given the smooth operation of the service the trial period has been extended to 30th June 2020 in consultation with the Operational Services Portfolio Holder.
- 1.2. A revision to the pilot project was approved at Cabinet on the 17th April 2018 that detailed a zero-tolerance approach to littering with individuals concerned being issued with a Fixed Penalty Notice (FPN) set out in appendix 1.
- 1.3. The service provided to Rushmoor Borough Council's currently includes enforcement activity for littering and dog fouling with Officers patrolling 3

days per week issuing of fixed penalty notices for those caught deliberately dropping litter.

- 1.4. The service also includes the administration of all tickets, managing representations, the investigation of complaints, educational patrols, body worn camera viewings and the preparation of court packs for the litigation process for single justice procedure. These court packs are sent to the RBC legal team to process and attend court. In some instances, prosecutions have been pursued for dishonesty in relation to false information being provided to the enforcement officers.

2. BACKGROUND

- 2.1. Aligned with the desire to regenerate the boroughs town centres, Cabinet was keen to explore options to reduce levels of litter and take a firm line with people caught dropping litter.
- 2.2. Historically, the Council had carried out litter and dog fouling enforcement directly through a small team of community Patrol Officers who were tasked with a wide range of environmental management enforcement tasks. This approach had limited success with the urgency of litter enforcement patrols often being lower than other tasks and due to insufficient scale to manage the back-office functions efficiently. Numbers of FPNs served were typically around 10 per calendar month.
- 2.3. Following an initial investigation into private operators in 2018, the Council agreed to implement a litter and dog fouling enforcement trial arrangement with East Hampshire District Council. The arrangement was applied under the terms of Section 101 of the Local Government Act 1972 and section 9AE Local Government act 2000 together with regulation 5 of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2012. These respective Acts and Regulations allow a Local Authority to arrange for the discharge of certain functions to another Local Authority.
- 2.4. The aim of the proposal was to deliver a “cost neutral option for Rushmoor to support delivery of a zero-tolerance approach to littering and dog fouling. An initial income and expenditure budget of £65k was agreed and approved which included £10k for internal resources and any shortfall income.

3.0 Details of Performance

General

- 3.1 Over the two years of operation, the trial has been highly successful with over 3,700 FPNs served for littering and a payment rate around 75% generating over £200k in total fines. The number of FPNs served for dog fouling offences is very low with only one served in the trial period. This is not reflective of the resource dedicated to it, more of the difficulty of witnessing the offence. Service performance in the second year of operation has been greater than in the first year. The data on the litter and

dog fouling enforcement carried out in the periods between March 2018 to December 2019 is provided for reference at Appendix 2.

- 3.2 In addition to focussing enforcement activity in areas of high footfall such as town centres, the team from EHDC are also able to patrol hotspots that are identified to them using local knowledge and intelligence from elected members. Some of these hotspots have been in areas of suspected dog fouling and around schools for example. The team have tackled around 150 of these per year in the Rushmoor area and they form an important element of the service with EHDC.
- 3.3 Since the implementation of the trial with Rushmoor, EHDC has entered into similar enforcement agreements with 7 other local authorities including the provision of legal services in processing court packs and attending court for non-contested matters but not for trials.
- 3.4 The service has operated smoothly since the trial began and the resource required to manage the agreement has been relatively small. There has been a much more significant pull on resources in the processing of prosecution packs for court that is outlined in more detail in section 5 of this report.
- 3.5 EH Commercial Services Ltd have been shortlisted for an award in the public/Public Service category at the 2020 LGC Awards and recognised as lead for best practice for Single Justice Procedure.

4.0 ALTERNATIVE OPTIONS

- 4.1 The Council previously explored the option of using a private company, but quickly found that they do not always share public sector values and can pose a high reputational risk. The service provided by East Hampshire District Council is a lower risk option combining a zero-tolerance approach for those caught deliberately littering with a more balanced view in less certain cases. They have a proven track record and are a much lower risk option for the Council with long term experience.
- 4.2 The Council could employ its own team of dedicated littering and dog fouling enforcement officers. However, without sufficient scale the operation would be significantly more costly with greater operating risk for Rushmoor.

5.0 Implications

Risks

- 5.1 There are no significant risks associated with this report.

Legal Implications

- 5.2 There is a cost in legal officer time in processing a significant number of prosecution packs; copying all of the bundles and arranging service, then

liaising with the court, EHDC, and Defendants to resolve objections, denials, payment queries and changes in plea.

- 5.3 Since the trial began the Legal team at RBC have processed 647 court packs. Once the papers are served on the defendants this often results in payment or a guilty plea. Where the defendant pleads not guilty a trial may result if the defendant attends at court. If they do not respond or do not attend at court for a trial the court may find them guilty in their absence.

Financial and Resource Implications

- 5.4 The legal work is a big draw on legal resources diverting time away from other matters including property and planning work. As the SJP process is deadline driven there is limited opportunity to plan the work and fit with other priorities.
- 5.5 At present whilst EH Commercial Ltd do offer a legal services in relation to the Single Justice Procedure as part of their business model, they do not supply any legal services for Rushmoor Borough Council as this was not part of their offer when the trial commenced This is currently under review and EH Commercial Ltd have confirmed following enquiries from the Corporate Manager – Legal Services that they would be able to supply the service to the Council.
- 5.6 EH Commercial Ltd are best placed to liaise with the court and the defendants in the flurry of activity that usually follows the issue and service of court packs and they can update the records to ensure that only the fully contested cases are forwarded on to Rushmoor. A renegotiated agreement with EH Commercial Ltd will free up resource within the Council's Legal department to focus on higher value work.
- 5.7 Other than the cost of officer time to process the Single Justice Procedure, the service will generate an estimated net surplus of around £13k in 2019/20.
- 5.8 At the current rate of action in order to give due priority to the littering prosecutions the legal team will need additional resources to undertake this work to avoid other legal work being neglected. It is expected that a new expanded contract with EH Commercial Ltd will be the most efficient and cost-effective way of handling the bulk legal work with the trials and hearings being managed in house.

6.0 CONCLUSIONS

- 6.1 The effective resourcing of this particular function has been proven successful over the course of two years of trial using the services of East Hampshire District Council. A dedicated team of skilled officers have served a significant number of Fixed Penalty Notices over the period, contributing to the enhanced cleanliness of the borough's town centres.

6.2 The recommendations within this report will result in an amended agreement that delegates litter and dog fouling enforcement to EHDC with effect from 1st July 2020.

BACKGROUND DOCUMENTS:

None

CONTACT DETAILS:

Report Author :

Kathryn Hilliard

kate.hilliard@rushmoor.gov.uk

Head of Service :

James Duggin

James.duggin@rushmoor.gov.uk

Appendix 1 : Environmental Littering – Revisions to Pilot Project Cabinet Report
Appendix 2: Data Information on Litter and dog fouling enforcement

APPENDIX 1

Cabinet
17 April 2018

Councillor Martin Tennant
Environment and Service Delivery
Portfolio Holder

Key Decision - No

Report No. COMM 1805

Environmental Littering - Revisions to Pilot Project

Summary and Recommendations:

The Council have entered a one-year agency agreement with East Hampshire District Council (EHDC) to better tackle littering and dog fouling.

Cabinet were informed that the process would involve the enforcement officer requesting that the individual concerned pick up either the litter or the dog faeces. If they refused, they would be issued a Fixed Penalty Notice (FPN) and have 14 days to pay.

Having reviewed the approach in other Local Authorities and given significant promotion around littering and dog fouling it is evident that those involved are aware it is an offence. If an opportunity is given to pick up before, issuing an FPN this becomes more of an educational rather than enforcement role and the cost to the Council would increase and be unlikely to breakeven. The Portfolio Holder is therefore recommending that a zero-tolerance approach is adopted and the individuals concerned be issued with an FPN regardless of if they subsequently pick it up.

Cabinet also approved standardising the Environmental Offences Fixed penalty fines for littering and dog fouling on designated land at £75 with no early penalty payment discount, currently £50 if paid within 10 days. Unfortunately, the Council has been relying on out of date legislation for dog enforcement and are currently unable to uplift the FPN above £50 for dog fouling without introducing specific Public Space Protection Order (PSPO).

Cabinet is recommended to approve:

- a zero-tolerance approach to littering and dog fouling with the individuals concerned being issued with an FPN regardless of if they subsequently pick it up. The FPN will be £75 for littering and £50 for dog fouling, the latter to be increased to £75 once the PSPO is in place.
- The Solicitor to the Council to start the process of introducing a PSPO for dog fouling and to update wider dog controls contained in the Councils Byelaws.

Introduction

Following Cabinet approval on 6 February 2018, in order to ensure a cleaner environment, the Council have entered a one-year agency agreement with EHDC to better tackle littering and dog fouling.

Cabinet were informed that the process would involve the enforcement officer requesting that the individual concerned pick up either the litter or the dog faeces. If they refused, they would be issued the FPN and have 14 days to pay.

Cabinet also approved standardising the Environmental Offences Fixed penalty fines for littering and dog fouling on designated land at £75 with no early penalty payment discount, currently £50 if paid within 10 days.

Unfortunately, the Council has been relying on out of date legislation for dog enforcement and are currently unable to uplift the FPN above £50.

Proposal

Having reviewed the approach in other Local Authorities and given significant promotion around littering and dog fouling it is evident that those involved are aware these are an offence. If an opportunity is given to pick up before issuing an FPN this becomes more of an educational rather than enforcement role and the cost to the Council would increase and be unlikely to breakeven. The Portfolio Holder is therefore recommending that a zero tolerance approach is adopted and the individuals concerned be issued with an FPN regardless of if they subsequently pick it up.

To enable the FPN for dog fouling to be increased from £50 to £75 it is proposed that the Council start the process of introducing a Public Spaces Protection Order (PSPO) for this offence. The opportunity will be taken to also update wider dog control issues covered in the Councils 2001 Byelaws to include excluding dogs from designated areas such as children playgrounds and requiring dogs to be kept on leads in designated areas.

Until the PSPO is in place, the FPN for dog fouling will be set at the maximum of £50 and the FPN for littering will remain at £75.

Alternative Options

The FPN for dog fouling could remain at £50 but given the Council is being charged £55 by EHDC for each one correctly issued, the Council will not recover its costs.

Individuals committing an offence could be given an opportunity to pick up before being issued an FPN but again would result in increased costs to the Council.

Financial Implications

It is anticipated that around 1,000 FPN's will be issued at £75 with a payment of £55 to EHDC for each one correctly issued.

An initial income and expenditure budget of £65k has been approved which includes £10k for internal resources and any shortfall in income. Given it is much more difficult to issue FPN`s for dog fouling these will be significantly lower compared to littering. The reduced income received from dog fouling will therefore be covered within existing budgets.

Conclusions

The Portfolio Holder for Environment and Service Delivery is keen to see further improvements to the environment and is recommending that a zero tolerance approach is adopted and the individuals concerned be issued with an FPN regardless of if they subsequently pick it up.

Unfortunately, the Council has been relying on out of date legislation for dog enforcement and are currently unable to uplift the FPN above £50 for dog fouling without introducing specific Public Space Protection Order (PSPO).

Background Documents:

Draft Agency Agreement
Cabinet Report No COMM1802

Contact Details:

Report Author – Kirsty Hosey – kirsty.hosey@rushmoor.gov.uk 01252 398511
Head of Service – Peter Amies - peter.amies@rushmoor.gov.uk 01252 398750

APPENDIX 2

Information on Enforcement for period March 2018 - March 2019

Details	Quantity
Fixed Penalty Notices issued for Littering	1833
Fixed Penalty Notices issued for Dog Fouling	1
Fixed penalty notices paid (number)	1325
Fixed penalty noticed paid (amount)	£99,185.00

Information on Enforcement for Period April 2019 - January 2020

Details	Quantity
Fixed Penalty Notices issued for Littering	1850
Fixed Penalty Notices issued for Dog Fouling	0
Fixed penalty notices paid (number)	1368
Fixed penalty noticed paid (amount)	£102,600.00

Hot spot data for period July 2019- December 2019

Location of Issue (Hot Spot)	Quantity Issued
Aldershot	529
Cove	8
Farnborough	512
North Camp	12
Total	1061

Percentage of FPN's issued by location

