

CABINET MEMBER DECISION RECORD

This form should be used to record Executive decisions taken by Cabinet Members

Decision Ref. No:

Responsible Officer:
Stuart Best

Subject:

Issuing of fixed penalty notices (FPNs) for specific environmental offences

Decision taken:

The introduction of a 12 month pilot scheme to be delivered by a private company for the issuing of FPNs for litter and dog fouling offences

Reasons for the decision:

The Council has a desire to improve environmental standards and to act to prevent litter being deposited irresponsibly. As a result, officers from Environment and Regeneration were tasked with investigating the potential to introduce a private company to issue fixed penalty notices for offences.

After consultation with the commercial market, the Council received detailed proposals from a number of private companies for the provision of FPNs, primarily for litter and dog control offences, all proposing to issue on behalf of the Council, FPNs relating to:

- Section 87 Environmental Protection Act (1990) under powers provided by Section 88, to include the dropping of litter, chewing gum and cigarette butts, and
- Fouling of Land by Dogs Section 55-67, clean Neighbourhoods and Environment Act 2005.

Officers have assessed in detail the proposals from and have also carried out research in to other schemes where private companies issue FPNs on behalf of local authorities.

Any arrangements with the private company would, for the pilot scheme, focus on the issuing of FPNs for environmental offences and would supplement the work of the Authority's wider community enforcement team; providing an opportunity to support the Council's efforts to reduce anti-social behaviour and improve the safety and attractiveness of the borough by;

- Providing an increased deterrent against litter and dog fouling offences
- Providing an increased level of enforcement patrols in shopping areas, local neighbourhoods, parks, seafront and other open spaces
- Providing targeted enforcement patrols in known litter and dog fouling 'hot spot' areas
- Taking enforcement action against those caught committing litter and dog fouling offences
- Reducing the amount of litter and dog fouling across the borough
- Reducing the costs of clearing litter and dog fouling

Currently, there is a high level of payment for FPNs issued in Bournemouth. However, not all individuals pay their penalty notice, which can result in court proceedings being initiated. For the duration of the pilot scheme the private company would be responsible for all administration activities up until the point of any required

prosecution; at this point it would become the responsibility of the Authority's Monitoring Officer to determine the appropriate action, and this may include engaging the provider and/or an alternative legal services provider.

Call-In and Urgency:

The decision is subject to the Council's call in procedure

Background:

The Council is empowered to issue FPNs through the authorisation of designated employees. Private enforcement organisations would be authorised to issue FPNs on behalf of the Council as Section 19 of the Clean Neighbourhoods & Environment Act 2005 gives the local authorities the ability to authorise any person to act on its behalf.

Private enforcement officers would also be expected to work outside of normal working hours, thereby providing an enforcement officer presence in priority areas in the evenings and at weekends. The working hours would also be particularly advantageous in helping to tackle dog fouling offences, which often occur when individuals walk their dogs before or after work. The Council would give clear direction on what areas need to be patrolled and the particular times.

The use of an external organisation to provide a dedicated resource to issue FPNs would not be seen in any way as heavy handed enforcement. Instead, it would simply be introduced to enhance the Council's ability to tackle those committing offences. Under the terms of any agreement with an external organisation, no targets would be set for the issuing of FPNs and the organisation would be prohibited from paying its officers any form of performance related pay/commission and/or bonuses linked in any way to the number of tickets individual officers issue.

The Provider will collect all fines. Remittances will be made to the Council at 4 weekly intervals, based on the number of FPN's correctly issued.

Options - and reasons for rejection:

Maintain Status Quo:

Current level of FPNs issued would stay the same and opportunities could be missed to improve environmental standards in high profile areas.

Use Third Party to Provide the Authority's Service:

This would be in the form of a 12 month pilot scheme and would be at no cost to the Authority (please refer to the Finance / Resource Implications section for further detail).

Consultations undertaken:

Consultation has been undertaken with a variety of stakeholders including:

- Elected Members
- Head of Operations
- Strategic Operations Manager
- Street Services Manager
- Operations Managers
- Service Director
- Monitoring Officer
- Law and Governance

Finance/Resource Implications:

- Officer time
- The intended 12 month pilot scheme offer would be funded out of the income generated by the fixed penalty notices and/or court costs awarded in the event of prosecution for non-payment of an FPN and would therefore effectively constitute a service at no additional cost to the Authority.

Name:



Signature: (of Chief Finance Officer)

Date:

Legal implications:

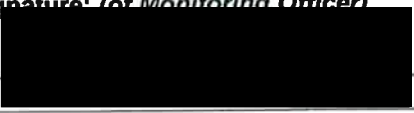
The Council is satisfied that it may legally delegate its powers in respect of the issue of FPNs as referred above. The Monitoring Officer will determine any appropriate action in relation to any prosecutions for non-payment of an FPN from time to time.

Legal Services will need to liaise with the local Magistrates Court to ascertain how much additional court time could be allocated to the Council in order to deal with the higher volume of prosecutions which are anticipated to arise out of the provision of this service by an external provider. It is likely that the Court would be limited in its resource; submission of prosecutions by the Council may therefore be limited to the extent of the agreed allocation of court time.

Name:

John Ballinall

Signature: (of Monitoring Officer)



Date:

16.09.15

Risk assessment:

The main risk associated with this decision relates to ensuring that the 12 pilot scheme is not seen as detrimental to the Authorities wider strategic aims and objectives

Name: Stuart Best



ing assessment)

Date:

16/9/15

Impact Assessments:

Environmental and Equality and Diversity Impact assessments have been completed

Information for/not for publication:

Decision contains no confidential information and is in the public domain and in the public interest as it aligns with Bournemouth Borough Council's priorities and commitments.

Background Papers:

N/A

Any conflict of interest declared by a Cabinet Member who is consulted by the Member taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
No			

Decision taken by:

Councillor David Smith (Print name)

Cabinet Portfolio : Planning & Environment

Signature: 

Date of decision: 24th September 2015

Date of publication of record of decision: (to be inserted by Democratic Services)

Date decision effective – that is 5 working days after the date of publication of the record of decision unless the decision is called-in for consideration by the relevant Overview and Scrutiny Panel:
insert date-

Equality Impact Needs Assessment

The Diversity Promise - *Better for all*



Title of Policy/Service/Project	Issuing of fixed penalty notices (FPNs) for specific environmental offences
Service Unit	Environment and Regeneration
Lead Responsible Officer and Job Title	Stuart Best, Street Services Manager
Members of the Assessment Team:	Larry Austin, Stuart Best, Rachael Mills
Date assessment started:	16/09/15
Date assessment completed:	24/09/15

About the Policy/Service/Project:

<p>What type of policy/service/project is this? (delete as appropriate)</p> <p>New/proposed</p>
<p>What are the aims/objectives of the policy/service/project? (please include here all expected outcomes)</p> <p>To improve general local environmental quality in targeted areas of the Borough by:</p> <ul style="list-style-type: none"> • Providing an increased deterrent against litter and dog fouling offences • Providing an increased level of enforcement patrols in shopping areas, local neighbourhoods, parks, seafront and other open spaces • Providing targeted enforcement patrols in known litter and dog fouling 'hot spot' areas

- Taking enforcement action against those caught committing litter and dog fouling offences
- Reducing the amount of litter and dog fouling across the borough
- Reducing the costs of clearing litter and dog fouling

Are there any associated services, policies or procedures? Yes

If 'Yes', please list below:

Current targets to local environmental quality, the processing procedures for fixed penalty notices and current legal requirements.

List the main people, or groups of people, that this policy/service/project is designed to benefit and any other stakeholders involved?

All Bournemouth residents, visitors, locally based businesses and wider Council departments.

Will this policy/service/impact on any other organisation, statutory, voluntary or community and their clients/service users?

Yes - improvements in some areas may lead to other areas being targeted by cleansing resources

Consultation, Monitoring and Research

Where there is still insufficient information to properly assess the policy, appropriate and proportionate measures will be needed to fill the data gaps. Examples include one-off studies or surveys, or holding informal consultation exercises to supplement the available statistical and qualitative data.

If there is insufficient time before the implementation of the policy to inform the EINA, specific action points will be need to be clearly set out in the action plan. Steps must include monitoring arrangements which measure the actual impact and a date for a policy review.

Consultation:

What involvement/consultation has been done in relation to this (or a similar) policy/service/project and what are the results?

Consultation via Corporate Management Team (CMT), Strategic Operations Manager, Monitoring Officer, Chief Finance Officer, Portfolio Holder for Community and relevant Head of Service.

Delivery team consisting of Street Services Manager, Operations Manager and specific supervisory team.

If you have not carried out any consultation, or if you need to carry out further consultation, who will you be consulting with and by what methods?

Officers will to monitor situation throughout 12 month pilot scheme and if necessary liaise with community groups to engage with residents regarding the pilot scheme.

Monitoring and Research:

What data, research and other evidence or information is available which is relevant to this EINA?

Research by Keep Britain Tidy has shown that the cost of cleaning up litter costs taxpayers almost a billion pounds every year. It is detrimental to health, the environment, the economy and is associated with crime and anti-social behaviour.

Several councils have already successfully introduced a private company to issue FPNs, including Swansea and Leeds.

Guidelines have been developed by the Department of the Environment to provide guidance and information about litter prevention. They are aimed at councils to help them contain and reduce litter on their land and provide guidance on taking enforcement action in their area.

Is there any service user/employee monitoring data available and relevant to this policy/service/project? What does it show in relation to equality groups?

Levels of littering in relation to high footfall areas and impacts on local environmental quality standards. Results of resident surveys, e=panels and specific neighbourhood groups such as Boscombe and West Howe.

If there is a lack of information, what further information do you need to carry out the assessment and how are you going to gather this?

Assessing the Impact

	Actual or potential positive benefit	Actual or potential negative outcome
Age	All residents should benefit from improved local environmental quality Dog fouling control – dog fouling is a nuisance to both residents and visitors to the Borough. Dog fouling can also be dangerous, particularly to young children.]	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences
Disability	Fly tipping – Fly tips can cause potential obstructions to public highways and this could be problematic to people with disabilities.	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences
Gender	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences

	Actual or potential positive benefit	Actual or potential negative outcome
Gender reassignment	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences
Pregnancy and Maternity	All residents should benefit from improved local environmental quality Fly tipping - Fly tips can cause potential obstructions to public highways and this could be problematic to people with disabilities.	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences
Marriage and Civil Partnership	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences
Race	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences For those whose first language is not English, the FPN procedure and instructions may need to be explained more fully.
Religion or Belief	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences
Sexual Orientation	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences
Any other factor/ groups e.g.	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences

	Actual or potential positive benefit	Actual or potential negative outcome
socio-economic status/carers etc		
Human Rights	All residents should benefit from improved local environmental quality	Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences

Stop - Any policy which shows actual or potential unlawful discrimination must be stopped, removed or changed.

If impacts have been identified include in the action plan what will be done to reduce these impacts, this could include a range of options from making adjustments to the policy to stopping and removing the policy altogether. If no change is to be made, explain your decision:

Action Plan

Issue identified	Action required to reduce impact	Timescale	Responsible officer	Which Business Plan does this action link to e.g. Service Equality Action Plan/Team Plan
Potential reputational impact due to introduction of enforcement service targeting littering and dog fouling offences	Full backing of relevant Portfolio Holder and wider management team through correct democratic process.	Pre-start date	Stuart Best	Environment & Regeneration Services Plan
	Implementation of communications plan via colleagues in Corporate Communications	From pilot introduction	Stuart Best	

For those whose first language is not English, the FPN procedure and instructions may need to be explained more fully.	Any language barriers will be mitigated by a well designed and flexible communications strategy.	From pilot introduction	Stuart Best	Environment & Regeneration Services Plan
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Issue: Issuing of Fixed Penalty Notices for Litter and Dog Fouling Offences
 Meeting Date: 19th September 2015
 Accountable Manager: Larry Austin
 Impact Assessor: Stuart Best

Key	
+	Balance of positive Impacts
?	Balanced or unclear impacts
-	Balance of negative impacts
n/a	Not applicable

Impact Criteria	Impact	Comments
Natural resources impact on use of natural resources - for example energy, water, raw materials	+	Enhanced enforcement activities will ensure that our natural and built environment is kept clean. There is a positive environmental impact to be achieved by creating a cleaner environment for residents, businesses and visitors to the Borough and activities minimise the use of energy, water and raw materials.
Quality of environment contribution to safe and supportive environments for living, recreation and working	+	Enhanced enforcement activities will ensure that our natural and built environment is kept clean. There is a positive environmental impact to be achieved by creating a cleaner environment for residents, businesses and visitors to the Borough and activities minimise the use of energy, water and raw materials.
Bio-diversity protects and improves wildlife and habitats	+	Enhanced enforcement activities will directly contribute towards producing a 'cleaner, safer, greener community and environment and decrease the amount of litter, detritus and other rubbish found on the streets and open spaces. This will help protect and improve wildlife and habitats.
Waste and pollution effects on air, land and water from waste and emissions	+	Enhanced enforcement activities will ensure that our natural and built environment is kept clean. There is a positive impact to be achieved by creating a cleaner environment for residents, businesses and visitors to the Borough and activities minimise emissions and will not pollute water or land. Increased cleanliness will reduce potential contamination.
Council Priority and Objectives for Improving our Environment: <ul style="list-style-type: none"> • Reduce traffic congestion • Improve streetscene • Improve recycling & energy management • Respond to climate change • Improve quality of existing space 	+	Enhanced enforcement activities will result in improving the quality of existing spaces, and contribute towards producing a 'cleaner, safer, greener community and environment, linking directly to the aims and objectives of the Council i.e. improved street scene and improved quality of existing spaces.

RISK REGISTER FOR Private Company issuing FPN for Litter and Dog Fouling Offences

RISK REGISTER COMPLETED BY: Stuart Best

DATE: 19.09.2015

Risk Key:
Definitions: L = Likelihood (1-4) I = Impact (1-4) S = Score (I x L)
Priority Ratings: 1-2 Low risk 3-6 Medium risk 8-16 High

Corporate Risk Categories: Pol=Political, Econ=Economic, S=Social, T=Technological, L=Legislative
Service Risk Categories: Enviro=Environment, Res=Resource, Cont=Contractual, L=Legal, T=Technological, Rep=Reputation, Phys=Physical

PLEASE SEE TABS BELOW FOR THE RISK SCORING MATRIX, INFORMATION ON RISK CATEGORIES AND IMPACT & LIKELIHOOD SCORING DEFINITIONS

Objectives of the Project, Policy, Initiative, Service etc:
A: To generate a revenue from garden waste collections to off-set operational costs
B: To improve service efficiencies and delivery for residents
C: To limit household waste arisings and encourage home composting
D: To allow access to garden waste collections for all residents equally
E:
F:

Risk No	Risk			Risk Category	Risk Owner	Gross Risk Score (ie as if no mitigations/controls in place)			Risk Mitigation/Control Measures Put in Place	Net Risk Score (ie rating of the risk with current controls or procedures in place)			Further Action (ie mitigation/controls) required	Action Owner	Completion Date (DD/MM/YYYY)	Target Risk Score (ie rating of risk once these new actions successfully implemented)		
	Risk (uncertainty which may affect objective)	Risk Cause (definite situational facts affecting the objective)	Risk Impact (contingent effect on objective)			L	I	S		L	I	S				L	I	S
1	Increased demand on Legal Services	Higher number of FPNs contested	Continued budget prudence would dictate a more needs driven approach be adopted and continued budget spend to clean effected	Legal & Rep & Econ	Larry Austin	2	2	4	Authority's Monitoring Officer to determine the appropriate action, and this may include engaging the provider and/or an alternative legal services provider	1	3	3		Stuart Best	05/10/2015	1	3	3
2	Higher demand on Administration process	Higher number of FPNs contested	Continued budget prudence would dictate a more needs driven approach be adopted and continued budget spend to clean effected	Enviro & Rep	Larry Austin	2	2	4	Authority's Monitoring Officer to determine the appropriate action, and this may include engaging the provider and/or an alternative support services provider	1	2	2		Stuart Best	05/10/2015	1	2	2
3	Council seen as uncaring due greater number of tickets issued	More patrols targetting specific areas and offences	Continued budget spend to clean effected areas	Enviro & Rep	Larry Austin	2	2	4	The team issuing the FPN will not be set targets and will be expected to use common sense and discretion at all times	1	2	2		Stuart Best	05/10/2015	1	2	2
4	Residents/visitors are unhappy about introduction increased patrols	More patrols targetting specific areas and offences	Continued budget spend to clean effected areas	Rep	Larry Austin	2	2	4	Robust comms plan in place. Scheme fully supported politically	1	2	2		Stuart Best	09/10/2015	1	2	2
5																1	2	2
6																1	2	2
7																1	4	4