



Report to: Cabinet Meeting – 17 January 2023

Portfolio Holder: Councillor Roger Jackson, Cleaner, Safer, Greener

Director Lead: Matthew Finch, Director – Communities & Environment

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Report Summary	
Type of Report	Open, Key Decision
Report Title	Enviro-Crime Enforcement
Purpose of Report	For Members to consider the future provision of enviro-crime enforcement using a via third party enforcement company.
Recommendations	<p>That:</p> <ul style="list-style-type: none"> (a) final approval be given for the Council to procure environmental enforcement services in relation to the management of fixed penalty notices for littering and dog fouling for a 3-year period; (b) delegated authority be granted, following oversight by the Policy & Performance Improvement Committee, to the Director Communities & Environment to agree terms for the contractual arrangement in consultation with the Assistant Director Legal & Democratic Services; and (c) the current pilot be extended for a further five months to allow procurement of a suitable contractor.
Alternative Options Considered	<p>Doing nothing – rejected due to the need to improve the district and meet the community plan objective.</p> <p>Undertaking the service in-house – rejected due to the need for Community Protection Officers to undertake a wider range of duties.</p>
Reason for Recommendations	To enable effective dog fouling and litter enforcement to be introduced into the district and to support the objectives of the Community Plan.

1.0 Background

- 1.1 In September 2021 Leisure & Environment Committee agreed to a one year Enviro-crime enforcement pilot with a third party company, Waste Investigations, Support and Enforcement (WISE).
- 1.2 WISE have been undertaking enforcement relating to littering and enforcement of breaches of Public Space Protection Orders relating to dog control. It was originally envisaged that fly tipping would form part of the pilot, however, this was not possible for a number of operational reasons.
- 1.3 The pilot has been a really useful exercise in identifying the potential benefits and the dis-benefits of such an arrangement. Clearly the increase in environmental enforcement and the raising awareness that this had produced has been a major outcome. Since the start of the contract and up to the 31st December there have been 3,713 fixed penalty notices issued. The majority of FPNs issued have been for cigarette related littering.
- 1.4 During the running of the pilot the Council has seen an increase in Customer Comments. The majority of these have been related to the attitude and forthright nature of the enforcement staff. Only a few have actually challenged the issue of the fixed penalty notice.
- 1.5 The agreement with WISE allows the Council to receive a percentage return on the income from FPNs issued. Based on current activity, the estimate is that the Council will receive approximately £10,000 from WISE over the period of the pilot contract.
- 1.6 The numbers of fixed penalty notices issued by WISE have met the expectation of the Council, this despite difficulties in recruiting and retaining enforcement staff. Any agreement for the future would need to set a specified number of staff or patrol hours per week.
- 1.7 Members will recall that an extension of 3 months on to the original 12 month pilot project (to end 25 January 2023) was approved by Cabinet in July 2022. The main reason for this was to allow a representative number of cases to be processed through the court system so that this could inform the contract specification in relation to preparing cases and the allocation of associated costs. The trial was progressing well, and it was therefore agreed for work to begin on a procurement exercise in the meantime, with a view to a seamless transition into a longer-term contract (with the successful bidder) at the end of the trial period.
- 1.8 The Council's legal team has been processing the no-payment cases through the court system since June 2022. As of the end of December 2022 there have been 110 cases prepared and sent to court for decision, and all of these are still awaiting a court hearing.
- 1.9 The learning from the pilot will shape the specification for any future agreement.

2.0 Proposal/Details of Options Considered

- 2.1 The one year pilot agreement with WISE ran up to the 25 October and was extended for a further 3 months. Members will need to consider whether they want to continue with and externalised enviro-crime enforcement approach.
- 2.2 It is proposed that a procurement process offering a concession for the delivery of an enviro-crime enforcement scheme is undertaken to secure a third party company to undertake this activity for the council. Any agreement will seek to maximise any benefits to the council whilst maintaining the activity level currently being achieved. the production of additional income not the primary focus of the concession.
- 2.3 The littering legislation allows for any income from environmental enforcement to be reinvested in environmental related expenditure such as additional litter bins, fly tipping campaigns etc.
- 2.4 In terms of the legal process for unpaid fixed penalty notices, the deterrent value is a maximum fine of £2,500 (which is paid to the Court system rather than the Council). It takes approximately 2 hours' legal officer time to process each court application. The team is currently processing 5 a week. Approximately 10 hours' additional legal officer time will be taken if a matter goes to trial. If successful at trial, the Council can apply to reclaim legal costs. If costs are awarded but not paid by the defendant, then the debt would be processed through the Council's sundry debt process.
- 2.5 This means that the external management of fixed penalty notices nonetheless has a resource impact on the Council's internal legal and, in all likelihood, sundry debt services, depending on the volume processed. To date the impact on the legal service has been absorbed, but this may need to be reviewed in future, particularly if the Council is minded to process a higher volume, and also if a significant number of prosecutions go to trial. For an initial period of time the service processed 10 a week, but this proved unworkable due to the impact on other workstreams. It is not yet possible to estimate the impact on the sundry debt service.
- 2.6 It is anticipated that the Council will seek a three-year concession contract for the provision of the service. As part of the concession a range of offences will be included as part of the contract including litter and the enforcement of dog control offences (including dog fouling) through the Public Space Protection Orders within the District. The contractor appointed will issue FPNs at the time of the offence or as soon as possible after the event where necessary and will collect payments and respond directly to appeals from persons wishing to appeal to the issuing of any FPN.
- 2.7 The enforcement of environmental offences is a district-wide response and the contractor may be directed to hotspots in the district and is expected to patrol all areas of the District as well as the main urban areas or commercial areas of Newark. They may also be required to tackle littering/dog fouling outside or near known hotspots such as fast-food restaurants and parks.
- 2.8 The Policy & Performance Improvement Committee has requested oversight of the detail of the arrangement prior to contracts being entered into. It is on the agenda for 30 January 2022, subject to Cabinet's approval of this report.

3.0 Implications

In writing this report and in putting forward recommendations, officers have considered the following implications; Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

3.1 Financial Implications (FIN22-23/4853)

Since October 2021 up to September 2022 Wise issued £178,725 of fixed penalty notices of which Newark and Sherwood has received £8,936 which equates to the 5% contract value.

£10,000 has been budgeted for the year 2023/24 which includes an element of fixed penalty notices that are issued by Newark and Sherwood District Council for which the council retains 100%.

3.2 Equalities Implications

The specification of the service required will require the service provider to make appropriate arrangements to ensure those with protected characteristics such as age and disability are not adversely affected and that reasonable adjustments are made where necessary.

3.3 Data Protection

The third party company employed by the council will hold personal data and therefore a suitable data processing agreement will need to be put in place as part of contractual arrangements.

3.4 Crime and Disorder

The enforcement of enviro-crime has positive implications for the Council's Cleaner, Safer, Greener agenda and is supporting the community plan objectives.

Background Papers and Published Documents

Cabinet Report 12 July 2022

Leisure and Environment Committee 21 September 2021

Newark & Sherwood District Council's Enforcement Policy