

**Classification:**  
Part 1 – Public

## **Gravesham Borough Council**

**Report to:** Cabinet

**Date:** 10 November 2014

**Reporting officer:** Nick Brown – Director(Finance & Environment)  
Stuart Alford - Assistant Director (Environment)

**Subject:** Litter Enforcement – 12-month trial with Kingdom

### **Purpose and summary of report:**

To provide Members with a proposal for undertaking effective litter and dog fouling enforcement across the Borough.

### **Recommendations:**

- 1) Members approve the proposal for a 12-month trial using Kingdom for litter and dog fouling enforcement as set out in the report.
- 2) The Director (Finance & Environment) in conjunction with the Assistant Director (Governance & Law) be delegated to pursue and enter into a contractual arrangement with Kingdom and to authorise their operatives for the proposed enforcement work.
- 3) Members approve the two amendments to the Common Enforcement Policy as set out in section five of the report.

## **1. Background**

- 1.1 On 17 September 2007, the Cabinet approved the Council's existing Common Enforcement Policy (attached at appendix two) together with the ambition of working with Kent Police to use local Police Community Support Officers (PCSO's) for enforcement of the environmental offences of littering, dog fouling, graffiti and fly-posting.
- 1.2 To date the responsibility for enforcing these offences has been spread across a number of council departments including Waste Management, Environmental Health, Planning Enforcement and Community Safety.
- 1.3 In 2008 a total of 28 officers were trained to issue Fixed Penalty Notices (FPN's) including 19 PCSO's. Targeted joint working enforcement projects were

Management Team – Litter Enforcement.

successfully carried out but were resource-intensive and consequently issuing FPN's for littering and dog fouling has largely fallen to three officers, one in Waste Management, one in Community Safety and one in Environmental Health. Since 2008 the roles of these officers has evolved and the enforcement element of their work has reduced to the point where very few litter or dog fouling FPN's are being issued. Since the start of 2014 the Council has issued nine litter FPN's and no dog fouling FPN's.

- 1.4 The new waste and recycling service has been successful in improving the cleanliness of the streets in the Borough through a significant reduction in refuse-related litter. It is considered that there is an opportunity to build on this success through the introduction of a more structured approach to the enforcement of litter and dog fouling offences. The council does receive enquiries and complaints from residents regarding littering and dog fouling and this proposal would help to address those concerns. To help encourage behaviour-change and keep the streets free from litter including cigarette butts the new scheme would be introduced alongside a publicity campaign designed to inform and educate.
- 1.5 To achieve effective enforcement in practice it is considered that specialist officers are required rather than the function being an 'add-on' to their primary duties. This approach would ensure that fully trained specialist enforcement officers would be able to operate in this field as their full-time role patrolling areas across the borough not just the town centre.

## **2. Provision of a Specialist Enforcement Function**

- 2.1 To improve the quality and effectiveness of litter and dog fouling enforcement work across the borough, the option of using an external company to provide the service was investigated.
- 2.2 A number of councils nationally including three in Kent (Maidstone, Tunbridge Wells and Canterbury) are using a company called Kingdom to provide their litter enforcement. Maidstone has used a third-party contractor for a number of years for their litter enforcement and this has helped lead to cleaner streets.
- 2.3 An initial meeting has been held with Kingdom to discuss the type of service they could offer as an initial 12-month trial and a site visit was made to Maidstone Borough Council to establish how the arrangement was working from the council's perspective and the impact that this has had in terms of street cleanliness.
- 2.4 Kingdom will, on behalf of Gravesham Borough Council issue FPN's for offences relating to:
  - Section 87 of the Environmental Protection Act 1990 under powers provided by Section 88 of the Act.
  - Dog Control Order for fouling under the Clean Neighbourhoods and Environment Act 2005.
- 2.5 It is proposed that Kingdom would provide two Enforcement Officers to Gravesham Borough Council on a call-off basis to conduct joint and single patrols undertaking the duties of an Enforcement Officer 5 days out of 7 per week, working 8 hours per officer per day between the hours of 06:00 and 00:00. As well as patrolling the town centre the officers will work on intelligence-led litter enforcement and dog fouling offences. The duties of these officers would not be restricted purely to these functions and there is the option to use the officers for other enforcement offences.

- 2.6 Each Enforcement Officer will produce all FPN paperwork immediately, including reports and witness statements, which will be provided to the client the next day, well within the allotted 48-hour time frame.
- 2.7 Kingdom will provide 16 hours of off-site administrative support at a cost of £14 per hour and can include EDA's (Electronic Digital Assistant) for use in the contract with the cost covered by Kingdom.
- 2.8 It is proposed that the Enforcement Officers will start with issuing FPN's within the town centre but also during the 12-month trial they will visit some of the outer lying shopping areas such as Perry Street and Lion Garage and will also look to deal with other issues such as dog fouling.
- 2.9 To allow for sufficient time to formalise the proposal with Kingdom and make the necessary practical arrangements including the appropriate publicity required it is suggested that the new arrangement should commence in January 2015.
- 2.10 All Officers will be dressed in a uniform agreed between Gravesham Borough Council and Kingdom and will have the use of video and sound through body-worn CCTV cameras. In the majority of cases the fixed penalty notice will be issued to the offender at the time of the offence, for the remaining cases the FPN will be sent to the offender.
- 2.11 If the offender is under the age of 18 then a fixed penalty notice will not be issued in the first instance. The offence will be dealt with through a letter being sent to the offender's parents/guardian. However if the offender commits multiple offences then the Council reserves the right to issue a fixed penalty notice.
- 2.12 The Council's Common Enforcement Policy states that where a second or further similar offence occurs within twelve months of an earlier Fixed Penalty Notice being issued the Council will normally proceed straight to prosecution for the latest offence without issuing a further notice. It is proposed however under the new enforcement regime, that penalty notices for more than one offence in a twelve-month period can be issued for littering and dog fouling but that if an offender has committed an offence multiple times then the Council reserves the right to proceed to prosecution.
- 2.13 There are no formal grounds for appeal against an FPN because the FPN is an invitation for the offender to discharge their liability to prosecution and if they wish to contest it they may do so through the courts. If there is a need to review a case for any reason as an 'informal appeal' then this will be undertaken in liaison with officers from the Council. This provision will help guard against any unnecessary waste of legal and court time.
- 2.14 Any complaints relating to enforcement officers will be investigated by Kingdom and a report produced for the council in accordance with the procedure set out in the contract.
- 2.15 The enforcement officers will also act as a presence in the town centre and it is proposed that they are linked into the G-Safe network. In Maidstone the enforcement officers are linked into their town centre radio network and in practice they have assisted in activities such as apprehending shop lifters.

### **3. Funding of the Enforcement Team**

- 3.1 The Council's Common Enforcement Policy states that the level of fixed penalty notice is determined in line with the default sum defined by the legislation. For both the offences of littering and dog fouling the default rate is £75. Under the

new arrangement it is proposed that there will be no discounted rate applied for the offences considered in this report.

- 3.2 The FPN's will issued at £75 and to fund the two Enforcement Officers Kingdom will retain £45 for each FPN that has been appropriately raised and the council will retain the remaining £30 for FPN paid.
- 3.3 To meet the cost of the new service there would need to be a 60% collection rate by Kingdom. The table below provides an example of how the funding of the service would operate on a weekly basis with a 60% and a 70% repayment rate.

For example:

Number of FPN's issued per week	Income at a 60% repayment rate	Payment to Kingdom	Revenue to Council	Income at a 70% repayment rate	Payment to Kingdom	Revenue to Council
25	£1,125	£1,125	0	£1,312.5	£1,125	(£187.50)
50	£2,250	£2,250	0	£2,625	£2,250	(£375)
75	£3,375	£3,375	0	£3,975	£3,375	(£600)
100	£4,500	£4,500	0	£5,250	£4,500	(£750)

- 3.4 No cost has been added for the potential increase in time required by the legal team to take non-payers to court.
- 3.5 The above example operates on the basis that all FPN's will be raised at £75 and there will be no discounted rate applied. The payment of FPN's will be managed by Kingdom who will take payments on-line, by phone and via paypoint. To facilitate the website payment a webpage will be set up on the Council's website which will then take the customer through to the Kingdom payment site.
- 3.6 Kingdom will carry out recovery action relating to the chasing of payments and will provide the Council with the necessary information relating to each case to enable those cases to be taken to court.
- 3.7 Currently Kingdom works with 15 councils nationally and the collection rate is above 60% for all their contracts.
- 3.8 The site visit to Maidstone Borough Council established that income generated from enforcement work completed has been recycled back into further anti-litter and environmental education programmes and additional street cleansing equipment such as chewing gum removal machines.

#### 4. Further Actions

- 4.1 The introduction of the increased enforcement work will be supported by an anti-litter and dog fouling campaign with the aim of helping to encourage a change of behaviour in those members of the public who currently contravene the sections of the Environmental Protection Act 1990 and the Dog Control Order as outlined in the report.
- 4.2 The Street Cleansing Service is currently being reviewed to provide a more effective and efficient service whereby resources are more closely targeted to areas where they are most needed. The review will also consider ways of dealing with other enforcement work such as rubbish being put out too early or fly-tipped in specific roads in the Wellington Street area.

## 5. Conclusion

- 5.1 Kingdom would use two officers on a 40-hour a week contract working 5 out of 7 days to mainly patrol Gravesend town centre to issue FPN's for litter and dog fouling.
- 5.2 The scheme would be on a 12-month trial subject to Section 151 officer agreement, however after this period the council would need to tender the contract if it wished to continue with the service.
- 5.3 Kingdom will provide all the administration for the service which will include the processing of tickets, collection of payments, the chasing of non-payers and documentation for legal case files.
- 5.4 The scheme is funded by Kingdom receiving £45 per FPN issued on the basis that a minimum collection of 60% is met to cover the basic cost of the service. If the collection rate fell below 60% then the council would incur a cost but if the collection rate was above 60% then the council would receive an income.
- 5.5 As there is a risk to the Council of there being a cost to the service, Kingdom would look for a 6-month minimum period within the 12-month contract with a 28 day break clause after that initial period. This would give the Council the opportunity to limit any losses if the collection rate was below 60%.
- 5.6 Whilst the work by Kingdom will be carried out having due regard to the Council's Common Enforcement Policy, it is proposed that two amendments are made to the policy to support the new regime and enforcement initiative. As set out in Section 2.11 and 3.1 of this report the proposed amendments are as outlined below:
  - 5.6.1 Under 7.3 of the policy, the new enforcement regime set out in the above report will allow for penalty notices for more than one offence in a twelve month period to be issued for littering and dog fouling. If an offender has committed an offence multiple times then the Council reserves the right to proceed to prosecution.
  - 5.6.2 Under 7.4 of the policy, the discounted penalty rate will not be applied to the offences of littering and dog fouling.
  - 5.6.3 The Common Enforcement Policy will be fully reviewed in due course to take into consideration these points and the new Regulators Code.

**Legal**

The Council has the power to enforce the against those who drop litter by fixed penalty notice under section 88(1) of the Environmental Protection Act 1990.

Under the Dog Control Orders (Prescribed Offences and Penalties etc) Regulations 2006 the council has the power to enforce against those who fail to pick up after their dog by fixed penalty notice.

**Finance and Value for Money**

To meet the cost of the new service there would need to be a 60% collection rate by Kingdom. The below shows the funding of the service on a weekly basis with a 60% and 70% repayment rate.

An example is shown in section 3.3 of the report.

No cost has been added for the potential increase time required by the legal team to take non payers to court.

**Risk Assessment**

There would be a financial cost to the Council is the collection rate dropped below 60%.

As the Council will only be paying for each FPN issued there is no financial risk if no FPN's are issued and Kingdom will have to cover the cost of the enforcement officers.

There will potentially be an increased demand on the legal team, taking the non payers to court.

<b>Equality Impact Assessment</b>	<b>Screening for Equality Impacts</b>		
	<b>Question</b>	<b>Answer</b>	<b>Explanation</b>
	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The legislation allows exemptions for registered blind persons and other disabled persons in respect of picking up after their dog.
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	
	c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		
<i>In submitting this report, the Chief Officer doing so is confirming that they have</i>			

	<i>given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
<b>Corporate Business Plan</b>	Strategic Objective 1 – Community Wellbeing Strategic Objective 3 – A Clean and Green Environment
<b>Crime and Disorder</b>	Visible and effective action against littering and dog fouling will improve feelings of safety and wellbeing within the local environment.