

EAST HERTS COUNCIL

NON-KEY DECISION – 17/14

REPORT BY EXECUTIVE MEMBER FOR ENVIRONMENT AND THE PUBLIC SPACE

TACKLING LITTER AND DOG FOULING - REVIEW OF ENVIRONMENTAL ENFORCEMENT PILOT

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To review the pilot scheme of using an external contractor to enforce against littering and dog fouling in problem areas in the district with the aim of making the district cleaner and changing behaviour towards environmental offences.

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|---|--|
| <u>RECOMMENDATIONS FOR DECISION:</u> That: | |
| (A) | the Council ceases the pilot after 6 months; and |
| (B) | the litter enforcement function is carried out within the Operations service. |

1. Background

- 1.1. In September 2016, the Council agreed to pilot a six month trial scheme starting April 2017, to increase the enforcement for littering and dog fouling in problem areas in the district using an external contractor. The company selected for this pilot was Kingdom.
- 1.2. Prior to the pilot commencing, an education campaign took place with an article in Link magazine and a press release. Officers also visited the main towns to educate those using the towns on the offence of littering by erecting signage, placing ashtrays into some of the existing bins and giving out pocket ashtrays 'stubbies'. Initial reactions from this activity were favourable. The Police were also given stubbies to hand out when on patrol.

- 1.3. Within the town centres, 14 extra ashtrays were placed in existing bins, one cigarette bin was added with a further 20 ashtrays on order. 50 new signs were placed in the town centres warning of litter patrols.

2. Report

- 2.1. The pilot scheme takes a zero tolerance approach with no warnings given and no lesser monetary fine for early payment with the focus on cigarette litter in the town centres and areas with high footfall. Dog fouling is also included with patrols focussing on public open spaces where we have high levels of intelligence or complaints.
- 2.2. There are three Enforcement Officers covering the district working from 08:00 to 18:00 Monday to Saturday.
- 2.3. From the period of 21st April 2017 to 2nd August 2017 1,229 Fixed Penalty Notices ('FPNs') were issued and the following table shows the current status:

| | |
|---------------------------|-----------|
| FPN Paid | 943 (77%) |
| FPN Waiting payment | 259 |
| FPN written off/Cancelled | 27 |

- 2.4. Of the 25 FPN's written off/Cancelled:

| | |
|--------------------------|---|
| Council cancelled FPN | 2 |
| Incorrect details/person | 3 |
| Mental illness | 7 |
| Unable to pursue | 2 |
| Uneconomic to pursue | 1 |
| Age of offender | 1 |
| Evidential Shortfall | 7 |
| Officer Misconduct | 1 |
| Unwell | 1 |

- 2.5. The majority of these were for cigarette litter, 1 for dog fouling and the remainder for general litter.

| Type | Issued | Paid | Cancelled | Paid Early/within time |
|-------------|---------------|-------------|------------------|-------------------------------|
| Litter | 1207 | 888 | 25 | 797 |
| Food | 8 | 5 | 0 | 5 |
| Fouling | 1 | 0 | 1 | 0 |
| Other | 13 | 9 | 0 | 8 |

2.6.

| Area | |
|-------------|-----|
| B/S | 588 |
| Hertford | 500 |
| Ware | 142 |
| | |

There are no formal grounds for appealing a fixed penalty notice but any mitigating circumstances can be communicated in writing within 14 days. 122 representations (10% of FPNs) were received during this period with 120 FPNs being upheld.

- 2.7. Of those representations received, the majority stated that they did not know that cigarette ends were considered as litter. Others said they were unaware that placing the cigarette end down the drain was littering, there are no bins around, there is no signage around and that the £80 fine is too high. Where offenders claim they are unable to pay the fine in one go, they are offered an extension of up to three months to pay the full amount.
- 2.8. Some representations have also quoted the gov.uk website where it gives guidance on issuing FPNs. It states that officers should 'Give offenders the chance to pick up litter before you issue an FPN. Warn them that you will issue an FPN if they don't'.
- 2.9. Comments on social media which were not directly sent to the Council say that some people think that the officers are intimidating, following people, mainly target women and are bullish, whilst others believe that they are doing a good job as they find littering distasteful.
- 2.10. The additional presence on the streets has been noted and appreciated by the public and various agencies. In particular one officer has assisted the Police with apprehending a suspect and officers have provided intelligence and evidence regarding fly tipping in the town centres for the Councils' own inspection team.

- 2.11. All administration of the FPNs is undertaken by the contractor. They aim to respond to representations within 14 days and send reminder letters out to non-payers. Generally this has worked well but there has been some increased customers coming into the Council reception areas and increased phone calls to Operations with queries or complaints.
- 2.12. In addition to monitoring the contract through representations and complaints, East Herts Environmental Inspectors have discreetly observed the enforcement officers in the towns and have viewed sample footage of the body worn cameras to check for appropriate conduct. No issues having been found and officers were shown to be very polite in both the observations and the footage.
- 2.13. A letter was sent to all the larger supermarkets and stores with private car parks in the district explaining the scheme and giving the option to opt out if they did not wish to have enforcement on their land. No one chose to opt out before the scheme started. However, as the scheme progressed four of the stores, three in Hertford and one in Bishop's Stortford requested that the officers cease to patrol and issue fines on their land.
- 2.14. The Police in East Herts believe the idea and principle of litter enforcement is useful, but feel that the residents of East Herts prefer a more compassionate stance with restorative rather than penalty based justice being the best way forward. They are against non-negotiable penalties and have given their officers discretion when it comes to minor offences and believe the council should do the same. The Association of Chiefs of Police have made it clear that restorative justice is the way forward.
- 2.15. As the enforcement officers look similar to the Police, the Police have concerns about the public's view on the company being associated with them and the negative publicity this may bring.
- 2.16. Offenders that refuse to give their name or address to an authorised officer are committing a criminal offence. In these circumstances guidance states that officers should call the Police to give assistance. However, Hertfordshire Constabulary have stated that they do have the resources to send officers to assist the Enforcement Officers in this eventuality. The Police have had members of the public and Councillors voicing their concerns over litter generated late at night in the towns and have confirmed they will find resources for larger scale littering or fly tipping incidents

or anything that can be pre-planned such as enforcement of litter during the night time economy.

- 2.17. During the pilot FPNs have been issued to anyone offending who is over the age of 18. There have been a number of occasions where it has been evident that under 18s have deliberately littered in front of the officers. In these circumstances details will be taken and a letter sent to the parents.
- 2.18. Eleven patrols have taken place to date for dog fouling in some of the open spaces. 1 FPN was issued and another FPN would have been issued if the Police had been able to attend to obtain the offenders details. Initial patrols focussed during the day but with little success so for remainder of the pilot early morning patrols will take place weekly.

3. Conclusion

- 3.1. The scheme has been successful in that it has raised awareness of littering, in particular, cigarette litter. It has also shown that there are enough people dropping litter to make this type of scheme self-funding meaning no additional cost to residents. Income from the scheme has also paid for some additional cigarette litter inserts into our existing bins. Having additional patrolling officers on the street can also assist police and other partners if this is implemented in a suitable manner.
- 3.2. However it isn't clear whether the scheme has had an impact on the cleanliness of the district as, overall, the district is already clean and the scheme tends to focus on cigarette litter. Additionally there are some clear drawbacks of this type of scheme. These are:
 - Private contractor has priorities which may differ from the Council's. There is little scope to give warnings or offer alternatives to FPNs. The direct approach may not be suitable for East Herts.
 - Without Police support, it is very difficult to enforce the legislation fully.
 - Negative views of the scheme by traders in towns - particularly cafes with outdoor seating areas and larger stores with car parks.
- 3.3. Taking the above into consideration to ensure the enforcement is focused on Council priorities is it recommended that the pilot scheme is ceased on 17th October 2017 and litter enforcement

continues to be delivered through the Council's Operations service.

4. Implications/Consultations

- 4.1. Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

[Tackling Litter And Dog Fouling – A New Approach To Fixed Penalty Notices – Pilot Project \(NKD16/18E\)](#)

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