

**REPORT TO:** Environment and Urban Renewal Policy and Performance Board

**DATE:** 11<sup>th</sup> September 2013

**REPORTING OFFICER:** Strategic Director - Communities

**PORTFOLIO:** Physical Environment

**SUBJECT:** Fixed Penalty Notices

**WARD(S):** Borough-wide

## **1. PURPOSE OF REPORT**

To provide details of a scheme whereby a private enforcement company issue Fixed Penalty Notices for litter and dog fouling offences on behalf of local authorities and to ask Members to consider recommending to the Executive Board that such a scheme be introduced in Halton.

## **2. RECOMMENDATION: That**

- 1) Members receive and comment upon the report; and,**
- 2) a report be presented to the Executive Board recommending the approval of a pilot scheme for the issuing of Fixed Penalty Notices for litter and dog control offences by a private enforcement company on behalf of the Council.**

## **3. SUPPORTING INFORMATION**

- 3.1 Council officers have been carrying out research into schemes whereby private Environmental Enforcement companies issue Fixed Penalty Notices for litter and dog control offences on behalf local authorities. This report provides Members with details of such schemes the potential benefits, and asks Members to consider making recommendations to the Executive Board in respect of the potential introduction of pilot scheme in Halton.
- 3.2 The Council currently has an Environmental Enforcement Team that sits within the Waste and Environmental Improvement Division. Over time, the Team's ability to undertake enforcement patrols has reduced as a result of increased involvement in activities to tackle a wide range of environmental nuisance and anti-social behaviour related offences. This has included working closely with the Safer Halton Partnership and undertaking an increasing number of multi-agency operations with Cheshire Police, Cheshire Fire and Rescue Service, the Environment Agency and RSL's across the borough.

- 3.3 The Council's Enforcement Team also provides an increasing level of support to ensure that residents comply with the requirements of the Council's Household Waste Collection Policy. The reduced amount of time that can be committed to carrying out enforcement patrols is affecting the Council's ability to both deter environmental crime offences and tackle those who commit them. This can be seen below, which shows the number of individuals caught committing offences and issued with FPNs;
- 2011/12 - 332 FPNs issued
  - 2012/13 – 231 FPNs issued
  - 2013/14 – 67 FPNs issued (April to July)
- 3.4 The use of private enforcement organisations for the issuing of FPNs would supplement the work of the Council's current 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 and open spaces
  - Providing targeted enforcement patrols in known litter and dog fouling 'black 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.
- 3.5 Private Enforcement Companies can provide services out of normal working hours. These hours of operation would increase the enforcement officer presence in Town Centres and parks during the weekend and also be particularly advantageous in helping to tackle dog fouling offences, which often occur when individuals walk their dogs before or after work.
- 3.6 The use of an external organisation to provide a dedicated resource to issue FPNs should not be seen in any way as heavy handed enforcement. Instead, it is simply a mechanism to improve the safety and attractiveness of the borough by enhancing the Council's ability to tackle those committing environmental crime offences.

- 3.7 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 Council the ability to authorise any person.
- 3.8 Under the terms of any agreement with an external enforcement company, no targets would be set for the issuing of FPNs and the company would be prohibited from introducing any financial incentives for its Enforcement Officers that would be linked in any way to the number of FPNs issued by individual officers.
- 3.9 As part of the Council's actions to help improve health and wellbeing, options are currently being explored into an initiative whereby individuals caught dropping cigarette related litter would, as an alternative to being issued with an £80 FPN, be asked to commit to attending a smoking cessation course. Their attendance at cessation sessions would be monitored and, if they failed to attend an agreed number, enforcement action would be pursued for the original offence.
- 3.10 Officers have undertaken research and have contacted a number of other local authorities who have engaged private enforcement companies. Below is a summary of their experiences, the names of the authorities have been removed;
- 3.10..1 **Authority 1** is 3 months into a 6 month contract with a private enforcement company. In the first 10 weeks of the scheme, over 300 FPNs were issued. There is between a 55-60% payment rate with remaining FPNs going to Court. The Authority's Legal team do minor checks on cases and then use private Solicitors who work on a set fee per case basis.
- 3.10..2 **Authority 2** entered into a 12 month contract a private organisation in November 2012. The Authority undertook a 3 month 'lead-in' advertising campaign to 'advise' and 'warn' members of the public. To date, 1572 Fixed Penalty Notices for littering and dog fouling offences have been issued. 71% of all FPNs were paid. The private company collect and prepare all case files and the Authority's Legal Services Department take the prosecution cases to Court.
- 3.10..3 **Authority 3** has used a private enforcement company since 2010, using the Keep Britain Tidy 'No Lfs No Butts' campaign to brand the enforcement initiative and inform the general public. To date, 12,950 Fixed Penalty Notices for littering and dog fouling have been issued, with 74% of all FPNs paid with to date. The authority has subsequently employed additional administration resources to support presentation of cases in court.

- 3.10..4 **Authority 4** has used a private enforcement company since 2009 with approximately 4,700 FPNs issued per year. 65% of the FPNs issued are paid. For unpaid FPNs, the enforcement company arrange the court dates and process all case files which are presented in court by the Council's Legal Team.
- 3.11 The Council's approach to preventing environmental crime has, and will continue to be, to persuade people to change their attitudes and behaviour through education, community engagement and providing information and advice. However, the Council does have a responsibility to protect those members of our community who are affected by the irresponsible behaviour of a minority of individuals who, despite the efforts of the Council to encourage them to do otherwise, commit environmental crime offences. To this end, the Council needs to have in place effective enforcement measures and the use of a private enforcement company will support the Council's existing Team in helping to deter and reduce environmental crime, thereby improving the safety and attractiveness of the borough.
- 3.12 There are many unknown elements as to how such a scheme would work in Halton and the delivery of a pilot scheme would give the opportunity for the initiative to be assessed. Members of the Board are therefore asked to support that a report be presented to the Executive Board recommending that consideration be given to approving a pilot scheme for the issuing of Fixed Penalty Notices for litter and dog control offences by a private company on behalf of the Council.
- 3.13 Members can be assured that only those who commit environmental crime offences will be issued with Fixed Penalty Notices and this is a key message that would be included in the promotion or publicity of any subsequent future use of a private enforcement company.

## **6. POLICY IMPLICATIONS**

- 6.1 There are no new policy implications as a result of this report.

## **7. OTHER/FINANCIAL IMPLICATIONS**

- 7.1 Currently, whilst there is a high level of payment for FPNs issued in Halton (approximately 85%), not all individuals pay their penalty notice, which results in court proceedings being initiated. Dealing with non-payment of FPNs is resource intensive and requires work from officers of both the Environmental Enforcement Team and the Council's Legal Services Team. If an increased number of FPNs were to be issued, the amount of court cases would most certainly increase. Discussions have been held with Legal Services on how any increase would be managed.
- 7.2 There would be no costs to the Council if it were to engage the services of a private enforcement company. The service would be self-financing, with the company receiving a fixed sum for each FPN issued and the Council receiving the balance from any Penalty Notice paid, which could lead to an increase in income.

## **8. IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

### **8.1 Children and Young People in Halton**

No direct impact

### **8.2 Employment, Learning and Skills in Halton**

No direct impact

### **8.3 A Healthy Halton**

By enhancing its ability to deter and prevent environmental crime, the Council will be making a positive contribution towards improving the environment and the appearance of the borough, which shall in turn have an overall beneficial effect on health and wellbeing

### **8.4 A Safer Halton**

Effective use of its regulatory powers will demonstrate that the Council is committed to dealing with environmental crime. The Council's efforts to improve environmental standards and reduce environmental crime will have a positive impact upon the Safer Halton Priority, and contribute towards the 'Cleaner, Greener, Safer' agenda.

### **8.5 Halton's Urban Renewal**

No direct impact, but overall environmental benefits should make the borough a more attractive location for investment.

## **9.0 RISK ANALYSIS**

**9.1** The Council has legislative powers available to deal with environmental crime. Failure to make best use of these powers to improve the local environment may lead to criticism of the Council thereby damaging its reputation.

## **10.0 EQUALITY AND DIVERSITY ISSUES**

**10.1** The Council aims to be consistent and evenhanded in all regards. Taking enforcement action to deal with environmental crime is not intended to have either a positive or negative impact upon equality and diversity or apply differently to any particular group.

## **11.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

**11.1** There are no background papers within the meaning of the Act.