

Supporting Information and Impact Assessment

Service / Policy:	Community Safety – Environmental Crime Enforcement Pilot Update
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Section 1: Background Information

1. What is the proposal / issue?

In July 2015, the Council made a decision to commence a 12 month environmental crime pilot project with 3GS, following the outcome of a competitive tendering process. The 12 month project is due to be completed in September 2016.

A decision is therefore required on the future of the pilot and as a result should the Local Authority pursue the project going forward and what functions should it perform?

2. What is the current situation?

The purpose of the Environmental Crime Enforcement Pilot has been to build upon, and complement the work already undertaken by Torbay Council officers in providing additional capacity to issue Fixed Penalty Notices (FPN's) for littering and dog fouling offences. This pilot also provided the opportunity to increase visibility, increase enforcement and re-educate the wider public of the negative impact of environmental crime on the community.

In the first 4 months of the project, which commenced in September 2015, 430 FPN's have been issued with a payment rate of 80%. There are currently 40 cases that are being prepared for prosecution and being progressed through the Courts.

The majority of tickets have been issued for littering with a 5 being issued for dog fouling. This compares to 54 over the same time period by the dog wardens. To put the level of tickets into perspective, 108 FPN's were issued in 2014-15 by Torbay Councils Dog Wardens for fouling. This compares favourably with Barnsley who issued 187, which was the highest in the country, but employs 13 staff to undertake this function. Some areas however, such as Sheffield and Wilshire issued none.

Although the number of tickets has been minimal for dog fouling, a strategy has been developed with 3GS to improve this area of work. It has been found that any effective enforcement needs to be targeted and hence based on community intelligence. Additional resources have been provided by 3GS to improve this area of performance. This includes a project focusing on

	<p>gathering intelligence.</p> <p>3GS have undertaken a robust approach to the staff that they have employed to ensure that a good quality service is provided. As a result staffing levels have fluctuated and the level of tickets issued has been lower than that anticipated.</p> <p>Based on the current trend of FPN's issued, it is anticipated that £51,000 will be generated by the local authority through this pilot. This however will also have to cover the legal costs associated with any non payments. The legal costs are estimated to be £6,000. As a result of surplus of £45,000 will be generated during the pilot. The service will therefore be cost neutral to the local Authority.</p> <p>The code of practice clearly states that the FPN regime is not intended as an additional source of income for authorities. Any income generated is designed to address all aspects of environmental crime. Any income will be used to offset costs associated with issuing the FPN's as well increasing awareness and compliance. To this end the income should be ring fenced for this area of work.</p> <p>In general, as the success of any FPN is advertised, the public become more compliant and fewer offences are committed and less income received. This is the main intention of the programme.</p> <p>No formal evaluation has been undertaken of the level of improvement in street cleanliness to date, as a result of the enforcement pilot. Anecdotal evidence suggested that it has improved including feedback from TOR2 operatives.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>The pilot to date has shown that it does offer future opportunities for Community Safety as an alternative method of delivering some of its regulatory activities. With budgetary restraints the availability of resources to deliver such services within the Local Authority is minimal. Without the Enforcement Project no additional enforcement activity will be undertaken. As such it provides a mechanism to deliver services that are cost neutral to the Local Authority, allowing it to focus its resources on matters that are more in depth and significant impact to the community.</p> <p>Due to the seasonality of certain types of environmental crime, such as dog fouling and littering, other enforcement activities have been reviewed to maximise the effectiveness of staff out of season. Other areas of enforcement that could be undertaken through the issuing of a FPN include:</p> <ul style="list-style-type: none"> • The presentation of domestic side waste (Section 46 CNEA) • The presentation of commercial waste (section 47 CNEA) <p>Both areas of enforcement listed above are currently undertaken by Community Safety, but would allow for additional enforcement and channel shift away from stretched services.</p> <ul style="list-style-type: none"> • Utilising Public Space Protection Orders (PSPO) for dog off lead

	<p>offences (Anti Social Behaviour, Crime and Policing Act 2014)</p> <ul style="list-style-type: none"> • The PSPO allows the Local Authority to identify a public place where activities are being carried on, which are detrimental to the quality of life of those in the locality and to subsequently prohibit or require specified things to be done in the restricted area, hence allowing it to be used for other forms of ASB. This area of work will be minimal due to the resource required to establish PSPO's and its appropriateness to resolve the issue identified. It would enable extra sources to enforce any designations that were felt appropriate and ensure its effectiveness. The Local Authority would therefore have the ability to use the range of enforcement tools at its disposal. <p>The option of bringing the service in house has been considered. It is felt however that this would not be cost effective. Resources within the Community Safety team are already stretched with no existing capacity within teams to bolt on this function, hence increasing staffing costs and not allowing for economies of scale. It would distract from current work streams removing the focus from those most vulnerable back to low level environmental crime. The infrastructure and software to enable the service to be delivered would also have to be established, with the ability to issue electronic tickets etc. The current provider takes all payments, manages all complaints and undertakes the administration process including all legal preparation. The cost of the services is therefore far more than just enforcement office. The staffing costs incurred by the local authority would also be more than that of an external provider. It is estimated that that it would cost a minimum of £88,000 to deliver the service in house not taking into account additional pressure on the call centre and complaints systems.</p>
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>By allowing the enforcement project to have an extended remit it is expected to have a positive impact on the Environment, by allowing swift and efficient enforcement of environmental offences. It will also help to maintain a cleaner Torbay for residents, businesses and visitors. This will have an additional benefit of reducing demand elsewhere through improved levels of cleanliness. The service provision would also link in with the strategic review of waste by the local Authority.</p> <p>It allows a cost effective mechanism to enable the local authority to deliver additional services allowing it to focus resources on those most at need.</p>

5.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The range of powers discussed are already available to the Local Authority to implement, the majority of which are utilised. Any consultation would only therefore be required if the designation of land under a PSPO is undertaken. This would related to any user of that land within Torbay.</p>
6.	<p>How will you propose to consult?</p> <p>Utilising new powers under ASB legislation such as PSPO, this would require the designation of land and hence would require the authority to carry out a statutory consultation. This would require publishing the notice of its intention in a local paper and hence must consider any objections before making an order.</p>

Section 2: Implications and Impact Assessment

7.	<p>What are the financial and legal implications?</p> <p>Along with all other local authorities in England, Torbay Council now has extended powers (including the issuing of Fixed Penalty Notices) to enable enforcement of legislation intended to protect both the individual and community as a whole.</p> <p>There have been changes to the legislation with the decriminalisation of such offences as the presentation of domestic side waste, to a civil offence. This was brought in by the Deregulation Act 2015 where the Local Authority has to demonstrate the impact such an offence is having on an area. There is also a right of appeal through a tribunal rather than a prosecution and can be recovered as a civil debt.</p> <p>A recommendation from the Government Select Committee in December 2015 suggested that a review of FPN fines be undertaken. The Government has supported this and has indicated that this will be completed in 2016 with the suggest level of fine for littering to increase from £80 to £150.</p> <p>If the designation of land under a PSPO is undertaken, this would require the local authority to undertake a consultation exercise which would have resource implications. If undertaken in a strategic manor the resource implication of any such action can be mitigated.</p> <p>All the current and proposed legislation changes however propose no significant legal implications.</p> <p>It has been evident throughout the pilot that there is seasonality to the issuing of FPN's, as footfall decreases and the behaviour of individuals change. Taking into account this seasonality the scheme has been found to be cost neutral to the local authority.</p>
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<p>8.</p>	<p>What are the risks?</p> <p>Financial: The Council could be exposed to a financial risk if payments for FPN's fall below 60% as the Local Authority would be responsible for paying any shortfall to the contractor. Under the pilot, payment rates have been at 80%. It is anticipated that this will increase as the first tranche of prosecutions for non payment are processed through the Courts.</p> <p>By diversifying the areas of work undertaken by the enforcement project this takes into account any seasonality and allow the local authority deliver a more comprehensive service.</p> <p>Reputational: The Council could receive negative publicity as a result of inappropriate or unreasonable enforcement action. This has been mitigated by the use of highly trained enforcement officers following rigorously outlined procedures, and a formal complaints procedure implicated by the contractor.</p> <p>Regular contract monitoring meeting have been undertaken with the current provided and as such both risks have not been realised.</p>
<p>9.</p>	<p>Public Services Value (Social Value) Act 2012</p> <p>A competitive tendering process was undertaken for the pilot. The current contract cannot be extended and as a result a new procurement process would have to be completed. Although the process would fall outside of OJ consideration, in order to have continual service from September 2016, the process would have to commence in May 2016. Hence a timely decision is required as there may also be TUPE implications.</p>
<p>10.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>FPNs are a valuable addition to the enforcement toolkit. Benefits include:-</p> <ul style="list-style-type: none"> • Having an appropriate and proportionate means of dealing with low level offending. • Dealing with infringements in a swift, simple, efficient and cost effective way. • Reducing demand on officer time such as preparing for prosecutions when an FPN can be issued instead. • Reserving court cases for the more serious and / or persistent offenders, reducing demand on legal support services. • Inducing behaviour change through financial penalty, often similar to the fine the court might impose for minor offences. <p>The need for such an intervention is required within Torbay. The proposed additional functions to be included in the project are issues that the Community Safety team receive complaints about and would hence shift demand.</p>

11.	What are key findings from the consultation you have carried out? No formal consultation has been undertaken with regards to this proposal.
12.	Amendments to Proposal / Mitigating Actions

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	The project has included educational elements going into schools hence promoting behaviour change. FPN's are not issued on minors.		No impact
	People with caring Responsibilities			No impact
	People with a disability			All individual circumstance are taken into account when issuing a FPN including vulnerability.
	Women or men			No impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No impact
	Religion or belief (including lack of belief)			No impact
	People who are lesbian, gay or bisexual			No impact
	People who are transgendered			No impact

	People who are in a marriage or civil partnership			No impact
	Women who are pregnant / on maternity leave			No impact
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The scheme aims to promote a cleaner environment.		
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	The enforcement activity aims to improve the cleanliness of the environment and hence mitigate any impacts in service delivery that may occur from a street cleaning perspective or other enforcement activity.		
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)			