

**Future Enforcement Options - On-street Enforcement Team**

<b>Final Decision-Maker</b>	Communities, Housing and Environment Committee
<b>Lead Head of Service/Lead Director</b>	William Cornall Director of Regeneration and Place
<b>Lead Officer and Report Author</b>	Jennifer Shepherd Head of Environment and Public Realm
<b>Classification</b>	Public
<b>Wards affected</b>	All Wards

**Executive Summary**

Following the end of the litter enforcement contract in August 2017, a number of wider objectives have been identified for the service. These include tackling broader environmental issues and anti-social behaviour which is of growing concern. This report examines the options for delivering these objectives, including offering an in-house service or outsourcing it to a private contractor. The options present a number of opportunities to contribute to a *clean and safe environment* however are not without risk. The recommendation is to pursue an 18 month trial of an in-house On-street Enforcement Team to review the impact it has, the income it brings in and the potential to expand the service to other authorities or take on additional duties.

**This report makes the following recommendations to this Committee:**

1. That a new in-house On-street Enforcement Team is introduced for an 18 month period to carry out the enforcement of litter, other waste related crimes, anti-social behaviour and Public Space Protection Orders (PSPO);

**Timetable**

<b>Meeting</b>	<b>Date</b>
Communities, Housing and Environment Committee	17 October 2017

# Future Enforcement Options - On-street Enforcement Team

## 1. INTRODUCTION AND BACKGROUND

- 1.1 Prior to 2010, litter enforcement was carried out as part of the duties of the Council's Environmental Enforcement Team. As a result very few Fixed Penalty Notices (FPNs) were issued for littering as they did not have the resource to carry out regular patrols.
- 1.2 The Litter Enforcement Service was outsourced in 2010 as it was identified the impact littering of cigarette ends was having on the appearance of the Town Centre and this offered a cost effective solution. In addition, a key benefit of out-sourcing the service was that the majority of the financial risk was passed to the contractor.
- 1.3 The Service operated successfully for over 7 years, generating a surplus which was reinvested in the street cleansing service and used for educational initiatives such as "Love where you learn". The Service also had a positive effect on behaviour, with very few repeated offenses and a decline in the number of FPNs issued over the past few years.
- 1.4 In August 2017, a mutual decision was taken by Maidstone Borough Council and Kingdom Security not to extend the existing contract as it no longer offered the best solution to the issues faced by the Council around environmental and more specifically the growing concerns regarding anti-social behaviour. It was identified that whilst tackling littering was still important, it was no longer the sole environmental and behavioural concern in the Town Centre and across the Borough as a whole, and therefore a more comprehensive solution was required.
- 1.5 The contract with Kingdom Security has now ended and as an interim measure, the level of littering in the Town Centre is being monitored on a daily basis to determine whether any immediate enforcement action is required. There are a number of authorised officers across the Waste and Street Scene Team and Community Protection Team, who are able to carry out patrols and issue FPNs if required. However this could not be carried out in the long term as it would detract from their investigative function, reduce capacity to deal with other demands and place them under increased pressure due to their already high caseloads.

### Objectives

- 1.6 The primary objective for the Litter Enforcement Contract in 2010 was to reduce the level of cigarette litter and therefore improve the appearance of the Town Centre street scene. It is clear that the Contract had a positive impact in the Town Centre, however with litter being successfully controlled, other issues have become more evident and need to be addressed in order to achieve the Council's priority of *a Clean and Safe Environment*.

1.7 Therefore the future options for on-street enforcement need to achieve a number of wider objectives in addition to litter enforcement:

- Address anti-social behaviour
  - Proactive enforcement of PSPO(s)
  - Reduce fly tipping across the Borough Increase awareness of Duty of Care requirements
  - Increase awareness of Commercial Waste requirements for businesses
  - Reduce fly posting
  - Reduce dog fouling
- 

## **2. AVAILABLE OPTIONS**

2.1 Five options have been identified for the future of this service:

- Do nothing
- Retender Litter Enforcement Contract
- Introduce an in-house on-street enforcement team
- Let a contract for an on-street enforcement team
- Work in partnership with a neighbouring authority to deliver an on-street enforcement team

2.2 However it is not recommended that the first two options are implemented as they do not support the Council's priority for a *Clean and Safe Environment* and would not achieve the wider objectives set out above. These options would result in the Council having limited resource to assist in enforcement of the Town Centre PSPO and new dog control measures, reducing the effectiveness of these enforcement tools and placing the day to day enforcement of the PSPO with the Police who have limited resources themselves.

2.3 Whilst the newly formed Community Protection Team and Waste Crime Officer based at the Depot are tasked with addressing many of these problems, with the end of the Litter Enforcement Contract there is a very limited resource for on-street proactive enforcement. The existing teams will simply not achieve the quantity of low level actions (i.e. FPNs) needed to change behaviour as a street-based team.

2.4 The other three options would deliver a more robust enforcement approach across the wider environmental and anti-social behaviour spectrum. However will provide more significant financial challenges.

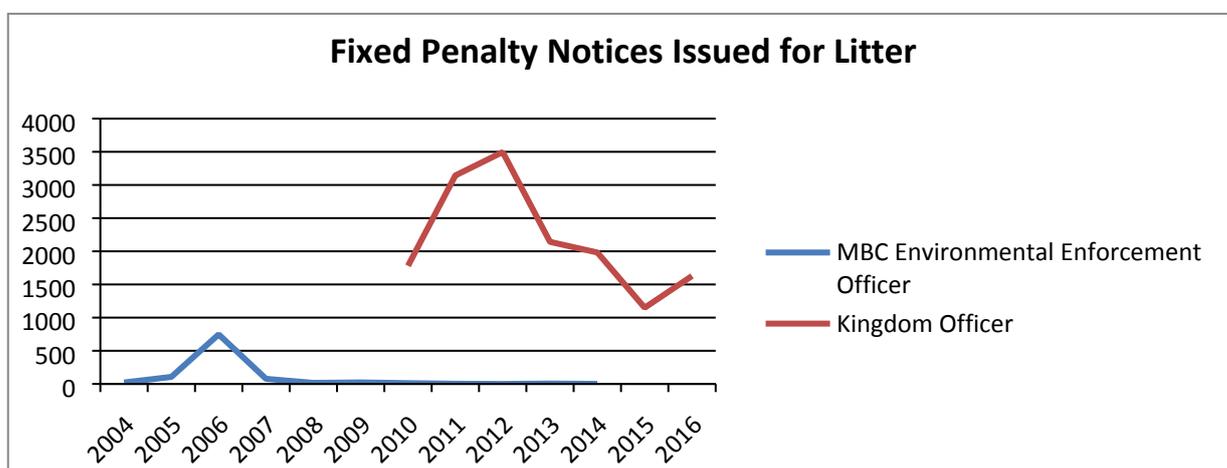
### **In-house On-street Enforcement Team**

2.5 The key difference between this and the litter enforcement contract is that this model would need to be focused on impact as opposed to income, as tackling these wider issues would not generate the level of income previously achieved. A demand-led service would be needed to ensure that time is allocated for all

target behaviours. The approach taken and powers used to tackle anti-social behaviour does not necessarily result in an FPN being issued to resolve the matter. In fact getting to the point of issuing a FPN would be considered a failure as we have not managed to address the behaviour through other means, i.e. a positive intervention.

2.6 However in order to make the team financially viable, a significant amount of time would need to be focused on litter enforcement. Without this, the whole cost of the team would need to be funded by the Council, which would be in the region of £75,000 per annum.

2.7 The graph below shows the number of littering FPNs issued by Council employed officers compared with the contracted staff. This highlights the challenges of motivating and retaining the staff that are predominately tasked with issuing littering FPNs. The officers provided by a private company are performance driven and managed accordingly.



2.8 Therefore it would be necessary to have a clearly defined delivery model for the service with allocated time and performance measures for litter enforcement whilst tackling wider environmental and anti-social behaviours.

2.9 The table below outlines the potential income which could be generated from utilising a team of two officers for 70% of their operational hours to issue littering FPNs.

	Litter Enforcement	Other Environmental / Anti-social Enforcement
Staff	2 FTEs	
Operational days	227 operational days (5.5 hours/day)	
Division of duties	70%	30%
Total FPNs issued	951	66
Value (Paid only)	£53,280	£10,560
Total Income	£63,840	
Costs	£75,000	
Total deficit	£11,160	

- 2.10 However the cost of two officers including management overheads would be approximately £75,000 meaning there would already be a deficit of just over £11,000 before legal costs are taken into account. Based on the figures above there would be a need to prosecute approximately 285 cases per year which would incur significant legal costs, in the region of £50,000. Upon successful prosecution, the Council would recover a significant proportion of these costs.
- 2.11 It should also be noticed that failure to pay an FPN issued for a breach of the PSPO or a Community Protection Warning would not result in a prosecution for the non-payment of the fine but for the original offence of breaching, meaning that there is no opportunity to recover the costs attached to the non-payment of the fine.
- 2.12 Therefore whilst operating an in-house team provides greater control and security around reputational risk, there is a financial risk that the service would not be cost neutral. There is also a risk regarding recruitment, retention and performance of staff which could also affect the financial viability of the service.

### **Outsource On-street Enforcement Team**

- 2.13 An alternative option to tackle the wider enforcement issues is to outsource the provision of an on-street enforcement team. This would be on a similar basis to the Litter Enforcement Contract but with a wider remit. Based on the low quantity of FPNs likely to be issued for the other offences, the contract would need to include an hourly rate for the enforcement of those other offences.
- 2.14 The table below provides a projection of the likely costs and income from outsourcing the service to a private contractor, before legal costs.

	Litter Enforcement	Other Environmental / Anti-social Enforcement
Staff	2 FTEs	
Division of duties	1.5 FTE (paid per ticket)	20 paid hours per week
Total FPNs issued	1022	66
Value (Paid only)	£57,204	£10,560
Total Income	£67,764	
Costs	£70,350	
Total deficit	£2,586	

- 2.15 This shows that the service is still unlikely to generate sufficient surplus to cover all costs, although more of the financial risk is passed onto the contractor. These figures also do not include the legal costs which could be in the region of £50,000.

2.16 It is also important to highlight that the actual contract costs would not be known until the procurement process was undertaken and therefore could be higher than the current projection. The low level of service providers also can inflate the costs and reduce the level of competition within the tender process.

**Partnerships**

2.17 A number of local authorities in Kent now have on-street enforcement teams provided either in-house or by a private contractor. An alternative option for service delivery would be to provide an in-house service across multiple boroughs. This could either be operated by Maidstone in a borough that currently outsources the work, or operated in Maidstone by an authority with an in-house service already.

2.18 One Maidstone has also been trialling Street Marshalls in the Town Centre funded through a grant from the Safer Maidstone Partnership and the initial feedback has been very positive. This work has been outsourced to a private contractor, TMS Security. This has illustrated the benefits of a more outcome focussed presence over a hard-line enforcement approach to deal with a number of behavioural issues.

2.19 Unfortunately there is currently only limited funding to continue with this project. However it is likely that if the Business Improvement District (BID) is a success this would form part of the proposals. This would provide the opportunity for Maidstone to carry out this work on behalf of the BID.

**Conclusions**

2.20 The options present a number of opportunities and challenges and given the evolving nature of the work required to instigate behavioural change, it cannot be delivered without a financial risk to the Council.

2.21 The table below highlights the strengths, weaknesses, opportunities and threats for each of the options:

	Strengths/Opportunities	Weaknesses/Threats
Do Nothing	No cost	Littering likely to increase over time Does not address wider issues Reputational risk
Retender Litter Enforcement Contract	Likely to generate surplus to contribute to service	Does not address the wider issues Not highest priority Reputational risk Financial driver Limited service providers

In-house on-street enforcement team	Direct management of staff More flexible service Wider remit Commercial opportunity Demand-led service	Recruitment and retention of staff Motivation of staff HR difficulties Financial risk as no guaranteed income
Outsource on-street enforcement team	Financial risk passed to contractor HR impact passed to contractor	Reputational risk Financially driven staff
Partnership	Income opportunity Commercial venture Reduce costs	Limited opportunities at present time

---

### 3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 The option which is likely to have the greatest impact on behaviour is an in-house on-street enforcement service; however this also has the greatest financial risk to the Council.
- 3.2 It is therefore recommended that the in-house service is trialled for 18 months. Whilst the financial modelling has identified a risk that the service would cost between £12,000 and £62,000, there are a number of factors which can mitigate this risk, including training of staff, immediate payment options and a reduced rate for quick payment. By trialling the service for 18 months the Council has the opportunity to review the impact it has had, the income it has brought in and the potential to expand the service to other authorities or take on additional duties.
- 3.3 This option enables the Council to proactively tackle the growing concern related to anti-social behaviour and more serious criminal activity and provide reassurance to members of the public and visitors to Maidstone.
- 3.4 Funding has been identified from last year's Council underspend to cover the cost for the 18 month trial.
- 3.5 The other options do not provide the Council with the flexibility and control over a service which is considered by many as controversial and poses a reputational risk if not managed closely.

---

### 4. RISK

- 4.1 A full risk assessment is included in Appendix A of this report.
- 4.2 Should the Committee decide not to agree the recommendation, there is a risk to the Council's priority of a *Clean and Safe Environment* if appropriate

enforcement powers are not used. This will be a low level risk and the purpose of this recommendation is to mitigate this risk.

---

## **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The Communities, Housing and Environment Committee previously supported the use of a private contractor to deliver litter enforcement in Maidstone, however was concerned about the reputational risk to the Council.
- 5.2 The recommendation takes into consideration feedback from both the public and Members around the future of the service and the opportunity to deliver it in-house.
- 

## **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 Should the recommendation be agreed, it is proposed that the new on-street enforcement team is introduced by April 2018. This will enable the recruitment and training of staff to be carried out and for the systems to be put in place to manage issuing and payment of FPNs.
- 6.2 Work will be undertaken with the Communications Team to develop a communications strategy for the launch and delivery of the new service including publicising positive behavioural change and the wider work of the new team with environmental crime and anti-social behaviour.
- 

## **7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	Accepting the recommendations will materially improve the Council's ability to achieve <i>A Clean and Safe Environment</i> . We set out the reasons other choices will be less effective in section 2.	Head of Environment and Public Realm
<b>Risk Management</b>	The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. [That consideration is shown in this report in	Head of Environment and Public Realm

	Appendix A and 4.2]. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.	
<b>Financial</b>	Accepting the recommendations will demand new spending of £12,000, plus legal costs of which the majority should be recovered through the Courts. We plan to fund that spending as set out in section 3 [preferred alternative].	[Section 151 Officer & Finance Team]
<b>Staffing</b>	Accepting the recommendation will require an additional two members of staff to carry out the on-street enforcement.	Head of Environment and Public Realm
<b>Legal</b>	Acting on the recommendations is within the Council's powers as set out in the Clean Neighbourhoods and Environment Act 2005 and Anti-social Behaviour, Crime and Policing Act 2014. Work would need to be carried out with Legal Services to determine the level of support needed to operate the service in-house and prosecute when required.	Legal Team
<b>Privacy and Data Protection</b>		
<b>Equalities</b>	No impact at this stage. However, the equalities impact should be considered as part of the procurement process for a new enforcement provider should the decision be taken. This will ensure all contracts managed are compliant with the Council's values, in line with the Public Sector Equality Duty and as set out in the council's Equalities Policy and objectives 2017-21.	Equalities and Corporate Policy Officer
<b>Crime and Disorder</b>	The recommendation will have a positive impact on Crime and	Head of Environment

	Disorder. This is a joint initiative with the Community Protection Team.	and Public Realm
<b>Procurement</b>		

## **8. REPORT APPENDICES**

Appendix A – Risk Management

---

## **9. BACKGROUND PAPERS**

None