

CABINET

DATE	26 th September 2018
REPORT OF	Councillor David Bolton Portfolio Holder Safer and Stronger Communities
RESPONSIBLE OFFICER	Sharon Wroot, Director of Finance, Resources and Operations
SUBJECT	Update on Dog Fouling & Littering
STATUS	Open
FORWARD PLAN REF NO.	GENERAL EXECEPTION Not included on the Forward Plan therefore, to be considered under the General Exception provisions of the Constitution

CONTRIBUTION TO OUR AIMS

The recommendation for consideration within this report contributes to the strategic priorities of the Council to promote a *Stronger Economy* and *Stronger Communities*. Providing attractive clean public open spaces free from litter and detritus directly supports the North East Lincolnshire Outcomes Framework, namely that People in North East Lincolnshire:-

- Feel Safe and are Safe
- Enjoy Good Health & Well Being
- Benefit from Sustainable Communities
- Enjoy and benefit from a strong economy

EXECUTIVE SUMMARY

Following the decision made by Cabinet on 14th February 2018 to commission a third party provider to undertake litter and dog fouling enforcement across North East Lincolnshire, this report provides an update on progress and recommends a number of key decisions required in order to partner with Doncaster Metropolitan Borough Council.

This report builds upon the work undertaken as part of the Smarter Neighbourhood Services Programme to support the development of sustainable communities by encouraging residents to keep their local environment and neighbourhoods clean and tidy by reducing incidence of environmental anti-social behaviour such as littering and dog fouling.

Adopting a place based approach, targeting areas of demand, the Smarter Neighbourhood Services Programme will deliver under three key themes of work:-

- Changing behaviour through smarter communications and key messages to prevent unacceptable behaviour
- Smarter intelligence led activity, targeting areas of concern
- Robust enforcement to further support changes in behaviour

RECOMMENDATIONS

It is recommended that Cabinet:

1. Delegates the necessary powers in relation to the enforcement of dog fouling and littering under the Environmental Protection Act 1990, Anti-Social Behaviour, Crime and Policing Act 2014, Clean Neighbourhoods and Environment Act 2005, and Health Act 2006 to Doncaster Metropolitan Borough Council.
2. Delegates the necessary enforcement powers in relation to Public Space Protection Orders under the Anti-Social Behaviour, Crime and Policing Act 2014 in relation to Alcohol related anti-social behaviour to Doncaster Metropolitan Borough Council.
3. Increases the fixed penalty tariff for dog fouling and littering from £50 to £100.
4. Authorises the Monitoring Officer, in consultation with the Director of Finance, Resources and Operations and the Portfolio Holder for Safer and Stronger Communities, to enter into a Service Level Agreement with Doncaster Metropolitan Borough Council to enable the delivery of the delegated enforcement powers for a period of two years, with the addition of three optional extension years.
5. Authorises the Director of Finance, Resources and Operations to complete any further actions necessary to implement and support the delegation of functions to Doncaster Metropolitan Borough Council.

REASONS FOR DECISION

Cabinet support of these recommendations, will allow the Council to delegate the function to the most appropriate partner, to work towards delivering three key themes of work:-

- Changing behaviour through smarter communications and key messages to prevent unacceptable behaviour
- Smarter intelligence led activity, targeting areas of concern
- Robust enforcement to further support changes in behaviour

1. BACKGROUND AND ISSUES

- 1.1 A commissioning process has been undertaken regarding the options to reduce the incidence of environmental anti-social behaviour, such as littering and dog fouling. During the commissioning process an opportunity arose to work with Doncaster Metropolitan Borough Council to deliver the outcomes required.
- 1.2 Doncaster Metropolitan Borough Council delivers this work within their own geographical area with an existing arrangement with a private sector provider. The

contract between Doncaster Metropolitan Borough Council and their provider has been procured to enable Doncaster Metropolitan Borough Council and the Provider to deliver enforcement activity within other local authorities.

- 1.3 Initial discussions with Doncaster Metropolitan Borough Council proved positive which led to a site visit to Doncaster with portfolio holders and service representatives.
- 1.4 Doncaster Metropolitan Borough Council's provider recruits and manages enforcement staff to undertake the patrols and enforcement activity, with Doncaster Metropolitan Borough Council staff processing the enforcement action and where needed the prosecution through the court system.
- 1.5 Doncaster Metropolitan Borough Council ensures ethical enforcement approaches are in operation, with appropriate appeals processes in place, to prevent reputational damage caused by overzealous dog fouling and littering enforcement activity their area.
- 1.6 A communications strategy will be put in place regarding the enforcement approach, as research has shown this has been welcomed in other areas by the public. It is essential that a positive and proactive media strategy is prepared in advance of launching this type of scheme.
- 1.7 There is a risk that members of the public will contact North East Lincolnshire Council and/or elected members regarding Fixed Penalty Notices, however the decision to enforce is made by Doncaster Metropolitan Borough Council and any appeals will follow their appeal process.
- 1.8 The next step is to finalise the Service Level Agreement which will be signed by the Monitoring Officer, in consultation with the Director of Finance, Resources and Operations and the Portfolio Holder for Safer and Stronger Communities

2. EXTENSION OF THE TRIAL PERIOD

- 2.1 Cabinet agreed, on the 14th February 2018, a short term trial with a partner of up to 18 months in order to allow a fair and accurate assessment of their enforcement approach and the planned activity provided, to ensure it is complementary to the local area.
- 2.2 However in order to enter an agreement with Doncaster Metropolitan Borough Council, and to allow the necessary investment to be made to the service, the period of the agreement is increased from 18 months to 2 years, with the addition of three optional extension years.

3 INCREASE THE FIXED PENALTY NOTICE CHARGE

- 3.1 For litter and dog fouling offences, fixed penalty notices (FPN's) are an alternative option to criminal prosecution.

- 3.2 For littering offences, the FPN tariff was historically set at £50, which has not changed for a number of years.
- 3.3 For dog fouling, government guidance indicates that the land specified in the January 2000 Dog Control Order made by the council remains designated and in force until such time as alternative control measures are implemented. The FPN notice tariff was set at £50 and has not changed.
- 3.4 In order for Doncaster Metropolitan Borough Council to partner with the council as part of this agreement and for it to be commercially viable both tariffs need to be increased to £100.

6. INTRODUCTION OF PSPO ENFORCEMENT

- 6.1 A Public Space Protection Order (PSPO) was introduced in October 2017, following public and member consultation. It applies to 7 wards in North East Lincolnshire namely South, Park, Sidney Sussex, Croft Baker, East Marsh, Heneage and West Marsh in relation to Alcohol related anti-social behaviour.
- 6.2 The PSPO is not a total ban on drinking in public places but makes it an offence to carry on drinking when asked to stop by an authorised officer. The power should only be used in circumstances where antisocial behaviour is occurring or is likely to occur. The penalty for breaching this order is normally a fixed penalty ticket or a fine of up to £500 on conviction.
- 6.3 Agreement is sought to delegate this function to Doncaster Metropolitan Borough Council.

7. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

- 7.1 A risk of reputational damage to the Council and the North East Lincolnshire area has been identified, as enforcement can attract negative publicity and this subject is likely to attract significant media interest. Therefore the positive impact of the activity on the area and the environment needs to be highlighted to mitigate any negative publicity. However, during recent waste consultations the public raised a desire for the Council to take action around littering and dog fouling.
- 7.2 An agreed communications strategy will be required involving Doncaster Metropolitan Borough Council and our council to ensure that the public understand the nature of the litter, dog fouling and PSPOs enforcement and their conditions.

8. FINANCIAL CONSIDERATIONS

- 8.1 It has been established that Doncaster Metropolitan Borough Council would absorb the legal services and enforcement staffing costs through the processing of the fixed penalty notices. So no additional costs to North East Lincolnshire Council are anticipated.

9. CONSULTATION WITH SCRUTINY

- 9.1 No consultation with scrutiny has taken place at this point.

10. FINANCIAL IMPLICATIONS

- 10.1 The delegation of the enforcement powers to Doncaster MBC would not result in any additional costs to the Council.
- 10.2 The Council will receive £17 for each penalty notice paid.

11. LEGAL IMPLICATIONS

- 11.1 The enforcement functions in relation to dog fouling, littering and PSPOs are set out in the Environmental Protection Act 1990, Anti-Social Behaviour, Crime and Policing Act 2014, Clean Neighbourhoods and Environment Act 2005 and Health Act 2006.
- 11.2 The power to delegate these executive functions to Doncaster Metropolitan Borough Council is set out in the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, which enables arrangements to be made for the discharge of functions, which are the responsibility of a local authority executive, by another local authority or an executive of another local authority.
- 11.3 Doncaster Metropolitan Borough Council's Constitution allows their Cabinet to accept the delegation of executive functions from another Local Authority and a report has been taken to accept our delegation of these functions.
- 11.4 The Public Contracts Regulations 2015 and European case law suggest that such arrangements between public bodies for the sharing of functions which are not wholly commercial in nature are not caught by EU Procurement Regulations. Doncaster Metropolitan Borough Council has in any event followed a full EU Procurement process to appoint a contractor to provide the services to other local authorities, and thus the guiding principles of EU Procurement – openness, fairness and transparency have been met.

12. HUMAN RESOURCE IMPLICATIONS

- 12.1 There are no direct HR implications arising from the contents of this report

13. WARD IMPLICATIONS

- 13.1 Applies to all wards.

14. BACKGROUND PAPERS

Communities Scrutiny Panel Report 14th December 2017 – Approach to Dog Fouling & Littering

15. CONTACT OFFICER(S)

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