

REPORT FROM: CORPORATE DIRECTOR

TO: POLICY AND RESOURCES COMMITTEE

DATE: 21st NOVEMBER, 2019

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DISTRICT ENFORCEMENT

RECOMMENDATIONS

- (1) That the appointment of District Enforcement be agreed for a further 12 months and further report be submitted in November 2020.
- (2) That the further exemption from Contract Procedure Rules be noted.

REASON FOR RECOMMENDATIONS

To continue the increase in enforcement activity, together with improved coordination, whilst achieving savings.

Background

1. At the meeting in December 2018 the Committee agreed to the appointment of District Enforcement (District) on a 12 month pilot. The background to this was a review of enforcement activity across the Council to make it more effective and also to identify possible savings.
2. The contract with District commenced on a pilot basis on 18th February 2019. It can be terminated by 60 days' notice in writing to expire no later than 17th February 2020.
3. Enforcement activities can vary considerably in their complexity and also in the time required to deal with a particular case. The contract with District, under which they undertake routine enforcement of littering and dog fouling, is seen as a way of providing more resource at no additional cost to the Council. At the same time it also frees up the Council's own staff to undertake more other time consuming and serious work such as investigation of fly tipping and dealing with dangerous dogs.
4. The focus of the arrangement is to challenge poor behaviour and counter the general perception that you can get away with dropping litter and not picking up after your dog, and thereby promote a cleaner Borough. Members will be aware that littering and dog fouling are high on residents' concerns as evidenced by for example perception surveys.

5. The contract started with a week of warnings, speaking with businesses and engaging with the public whilst patrolling through the main towns. There was extensive publicity issued by the Council.
6. District were working for Wyre Council and Rossendale Council before their appointment with Pendle. Rossendale has since agreed a 12 month extension. Wyre has agreed a 6 month extension whilst it undertakes a formal procurement.
7. They are about to start new contracts with Denbighshire and Medway councils. Pembrokeshire, Dover and Barnsley councils have or are about to extend their contracts with them for a further 12 months. We understand that they are in discussion with Fylde Council about a pilot.
8. Neighbouring councils Burnley, Hyndburn and Blackburn with Darwen have also employed a contractor working to a similar model in the last three years.

District's model

9. The basis of District's model is:
 - Robust leadership and highly trained staff solely employed for environmental enforcement.
 - An agreed deployment strategy ensuring all public/member complaints are investigated and "hot spot" areas patrolled.
 - All Fixed Penalty Notices (FPNs) are issued on the spot and are accompanied by high definition body worn camera footage.
 - Robust processes – ensure that non-paying offenders receive reminder letters on day 14 and day 21. All representations are investigated and closed in a timely manner and non-paying offenders are prosecuted if the FPN has not been paid.
 - Clear transparency giving the Council access to all FPNs issued, letters sent, representations received and responses, prosecution files and officer witness statements and body worn camera footage for all issued FPNs.
10. In delivering the service they provide:
 - Staffing, uniforms and IT
 - Equipment (handheld computer, body worn cameras and mobile phones)
 - Company vehicle
 - Patrols and hotspot identification
 - Issue of FPNs
 - Correspondence relating
 - Witness statements and other evidence
 - Call handling and complaint management
 - Collecting and reconciling FPN payments
 - Prosecution files compilation and process
 - FOI responses
 - Performance reports
11. Their staffing structure of a Team Leader, 4 Enforcement officers and remote administrative support gives approximately 200 contracted patrol hours per week providing 7-day coverage.

12. All FPN revenue is collected by District and offset against all of its service costs (costs only, not profit). The remaining revenue is shared 50:50 between the Council and District. It is estimated that after deducting District's running costs there would be a surplus of which the Council would receive around £20,000 in a full year. So far we have received £16,100.
13. District work closely with Council staff to identify hot spot areas and assist in directing the enforcement to areas of concern. Whilst they spread resources to cover all parts of the Borough the key focus is inevitably on heavier footfall areas and hot spot reports.
14. They share the base at Fleet Street which enables monitoring of their activity on a day to day basis.
15. District have engaged with local voluntary and community groups who have a common interest in a cleaner Borough.
16. In the period 18th February – 31st October District have issued 3506 FPNs of which 2310 have so far been paid totalling £196,257. Around 260 have been written off or withdrawn for a variety of reasons. The remainder are awaiting payment or have been referred for prosecution for non - payment of the FPN.
17. Successful prosecutions normally lead to penalties of £350 upwards imposed on the offender. The fine and victim surcharge are retained in the Criminal Justice System with the prosecution costs of between £100 and £128 paid to the Council.
18. The Appendix gives a breakdown of the offences and locations by town.

Whether to extend the contract

19. It is fair to say that the employment of District and implementation of their approach has been both welcomed by residents and has also generated adverse reaction, especially so on social media.
20. General criticisms have been the concentration on instances of dropped cigarette butts, enforcement in areas such as supermarket car parks, unwillingness by the enforcement officers to accept apparently reasonable justifications for the littering and "following" of potential offenders.
21. Nationally, dropped cigarette butts represent 97% of all items of litter and inevitably will be the main type of offence caught. From the appendix it can be seen leaving aside cigarette butts and rolled up cigarettes over 200 FPNs have been issued for other types of litter where it is harder to catch the offender. In comparison the Council's own Team was able to issue only 73 FPNs for litter last year.
22. Supermarket car parks are open public areas within the definition in the legislation. FPNs have been discontinued where an unjustifiable approach has been taken or where an offender proves to be a vulnerable person.
23. Whilst there have been some examples of poor attitude and treatment of offenders, complaints have generally proved to be unfounded when the body camera footage has been reviewed.
24. The voluntary organisation Pick Up for Pendle reports an improvement in the amount of litter dropped.

25. A fundamental question Members need to consider is that if the contract with District is not continued how will effective enforcement be carried out in future. The Council's Enforcement Team now has only three members of staff and in the current financial climate there is no budget to increase it. To replicate an internal team of the same size, equipped in the same way and with similar administrative support is estimated to cost in the region of £200,000.
26. No longer having to deal with routine littering and dog fouling has meant that the Team have been able to deal with 144 fly tipping reports this year compared with 44 last year. District have so far issued 59 FPNs for dog fouling. This compares with 13 the Team were able to issue last year.
27. In the circumstances Members may consider that the contract should be extended for a further 12 months again on a pilot basis and to ask officers to continue to work with District to further improve the focus and perception of the enforcement.
28. If the Committee is so minded this will require a further exemption from Contract Procedure Rules as competitive tenders have not been sought. The Corporate Director and Chief Financial Officer who are responsible for approving exemptions are satisfied that it is justified in that the service is of a specialised nature with a limited number of suppliers and also the appointment is on a pilot basis.

IMPLICATIONS

- Policy:** The Council's policy is to provide an effective enforcement service.
- Financial:** Estimated additional income of around £20,000 in a full year in respect of dog fouling and littering FPNs.
- Legal:** The Council has the legal powers to authorise a contractor to undertake these enforcement duties on its behalf. Formal service level agreements for the pilots will be agreed.
- Risk Management:** None arising from the report.
- Health and Safety:** None arising from the report.
- Sustainability:** None arising from the report.
- Community Safety:** The freeing up of staff resource helps tackle common community safety Issues, e.g. dangerous dogs.
- Equality and Diversity:** None arising from the report.