

REPORT FROM: CORPORATE DIRECTOR

TO: SPECIAL BUDGET POLICY AND RESOURCES COMMITTEE

DATE: 13th FEBRUARY 2020

Report Author: Philip Mousdale
Tel. No: 01282 661634
E-mail: Philip.mousdale@pendle.gov.uk

DISTRICT ENFORCEMENT

RECOMMENDATIONS

- (1) That the appointment of District Enforcement be agreed for a further 12 months subject to variation of the agreement to include the proposals in paragraph 23 below; and that a further report be submitted in December 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.

Introduction

1. This report is an update of the report considered by the Committee at its meeting on 21st November. For ease of reading the updates are in bold type.
2. The Committee's decision was to give formal notice to terminate the agreement but that a meeting of Group Leaders and officers be held with District Enforcement to try to re-negotiate it with a view to focusing more on the Council's requirements.
3. That meeting has been held and this updated report is submitted so that the Committee can take the final decision.

Background

4. 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.

5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. They are about to start new contracts **with Fylde**, Denbighshire and Medway councils. Pembrokeshire, Dover and Barnsley councils have or are about to extend their contracts with them for a further 12 months.
11. 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

12. The basis of District's model is:
 - Robust leadership and highly trained and **experienced** staff solely employed for environmental enforcement, **with regular performance appraisals**.
 - 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, **worn in the interests of members of the public and the enforcement officers**
 - Robust processes – ensuring 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.
13. 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 to non-payment
 - Witness statements and other evidence
 - Call handling and complaint management
 - Collecting and reconciling FPN payments
 - Prosecution files compilation and process
 - FOI responses
 - Performance reports
14. 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. **This is normally between 7am and 5 pm in the winter months and 6am and 8pm in the summer months. They have confirmed that they are prepared to consider working outside these hours to tackle a particular recurrent issue.**
 15. 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 **£22, 250**.
 16. 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.
 17. They share the base at Fleet Street which enables monitoring of their activity on a day to basis.
 18. District have engaged with local voluntary and community groups who have a common interest in a cleaner Borough.
 19. **In the period 18th February – 31st December District have issued 4,161 FPNs of which 2,849 have so far been paid totalling £239,387.** 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.
 20. **District undertake all the preliminary work to prepare cases for prosecution including witness statements and issuing the summons. We estimate that in around 80% of cases there is no response from the defendant and the case is dealt with in their absence. There is no need for a member of the Council's Legal Services to attend court for these. There have been just 20 cases where attendance has been necessary at Burnley Magistrates' Court.**
 21. 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 to be paid to the Council.
 22. The Appendix gives a breakdown of the offences and locations by town.

Proposals for variation of the agreement

23. **Discussion at the meeting with District Enforcement centred on the following proposals:**
- **Aim to reduce the percentage of cigarette and cigarette butt FPNS. To further this:**
 - extend the scope of the contract to include littering from moving vehicles, Public Space Protection Order requirements such as dogs on leads and carrying means of picking up; and smoking in work vehicles (eg taxis)
 - increase the weekly presence in parks and other green spaces across the Borough by 25% ie to two officers for one and a half days and concentrate on dog fouling and PSPOs
 - hold a well publicised amnesty day including widespread distribution of beermat highlighting the dangers in climate change terms of dropped cigarette butts, and other educational leaflets.
 - **Establish a programme of school and college educational visits including poster competitions and appoint of litter champions, and explore possibility of sessions in supermarkets**
 - **Establish a continuing publicity campaign concentrating on good news and human stories, outcome of prosecutions for dog fouling and serious littering offences and publication of Frequently Asked Questions to increase public awareness of how the system works**
 - **Supporting litter picking days in the community and other community projects**
 - **Set up a cross party councillor panel to meet on a regular basis with District Enforcement**
 - **Continue with the open book contract arrangement**
 - **Explore further ways of linking and publicising litter concerns within work on the climate change emergency agenda**

Whether to extend the contract

24. 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.
25. 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.
26. 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.
27. **District report that 22% of FPNs issued for littering are for offences on privately**

owned land to which the public has access such as supermarket car parks. 78% are on publicly owned land such as the highway and town centre precincts.

28. FPNs have been discontinued where an unjustifiable approach has been taken or where an offender proves to be a vulnerable person. **There have been 14 cases where the offender was a young person and 8 where they were considered to be vulnerable.**
29. 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. **There is no recorded figure for the number of times the footage has had to be reviewed or the time spent on this but it is normally only a couple of minutes. Similarly there is no record of occasions when there is no footage e.g. because the Enforcement Officer has forgotten to switch on the camera. District are developing the system to record these statistics**
30. The voluntary organisation Pick Up for Pendle reports an improvement in the amount of litter dropped.
31. 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.
32. 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.
33. **In the circumstances Members may consider that the contract should be extended for a further 12 months again on a pilot basis. The contract would be varied to include the proposals in Paragraph 23 above and officers would continue to work with District to further improve the focus and perception of the enforcement.**
34. 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, eg dangerous dogs.

Equality and Diversity: None arising from the report.