

**WAVERLEY BOROUGH COUNCIL**

**EXECUTIVE - 6 FEBRUARY 2018**

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**Title:**

**LITTER AND DOG FOULING ENFORCEMENT PROPOSAL**

**[Portfolio Holder: Cllr Andrew Bolton]**

**[Wards Affected: All]**

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**Summary and purpose:**

The purpose of this report is to seek approval to trial the issuing of Fixed Penalty Notices (FPNs) for littering and dog fouling offences in partnership with East Hants District Council.

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**How this report relates to the Council's Corporate Priorities:**

The proposal will contribute to the Council's vision for Making Waverley a better place to live and work. It will also contribute to the Council's Value for Money priority by exploring an additional source of income for the Council.

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**Background**

1. Waverley Borough Council currently investigates and takes enforcement action against incidents of fly-tipping but does not carry out any significant levels of enforcement for general littering. Fly-tipping enforcement is carried out by the Environmental Enforcement Team but their resources are limited and split between this and contract compliance monitoring.
2. Waverley currently spends approximately £1.1m per annum on cleaning its highways and public spaces, this includes fly-tip clearance, street sweeping, litter bin emptying and litter picking. Any initiative which helps support the Council's priority of improving the cleanliness of Waverley's streets without increasing council costs is therefore a benefit.
3. Previously under the Dogs (Fouling of Land) Act 1996, dog owners who failed to clear up after their dogs could be prosecuted in the Magistrates Court, and on conviction, face fines of up to £1000. Whilst Waverley maintained a policy of prosecuting offenders where there was sufficient evidence, officers, in common with officers in many local authorities, have not been in a position to take action due to a lack of evidence.
4. The Dogs (Fouling of Land) Act 1996 has now been superceded by the Antisocial Behaviour Crime and Policing Act and the introduction of Public Space Protection Orders (PSPOs) as the replacement for Dog Control Orders. The Executive has previously indicated support for the introduction of PSPOs and pre-consultation on PSPOs in relation to dog fouling and

other dog related issues is about to begin and on completion of the consultation, a further report on the response to that consultation will be brought to the Executive.

5. Many local authorities now issue Fixed Penalty Notices (FPNs) for littering and dog fouling, and are introducing similar PSPOs which are far more effective and instant sanctions for irresponsible dog ownership. There is of course still a need for sufficient resources in terms of enforcement officers in order for the PSPOs to be effective. Whilst Waverley has some resources for this enforcement work within the Joint Enforcement Initiative, their efforts tend to be focused on more serious fly-tipping and contract monitoring.

### **Levels of fine for Fixed Penalty Notices**

6. The level of fines for Fixed Penalty Notices for littering and dog fouling in Waverley was previously set at £75 for full payment with 14 days, or £50 if paid within the first 10 days. On 30th October 2017 new regulations (the Environmental Offences (Fixed Penalties) (England) Regulations 2017) were passed amending the current regulations relating to Fixed Penalty Notices (FPN) for Environmental Offences such as littering. These will come into force on 1 April 2018.
7. These new regulations have increased the maximum penalty to £150, with the default penalty set at £100. Therefore, a decision needs to be made as to whether:
  - the new minimum default penalty of £100 is established, or a higher amount (up to £150).
  - the lesser penalty option for early payment is retained or removed entirely.
  - If retained, the lesser penalty for early payment is increased to £75
8. At a recent Surrey Environmental Health Managers Group meeting, the fine levels were discussed and other Waverley authorities had decided upon £100 as the default penalty level. It is however for each local authority to determine its own level of penalty.

### **East Hampshire District Council Proposal**

9. East Hampshire District Council (EHDC) have recently submitted the proposal attached at Annexe 1, in which they offer to provide litter and dog fouling enforcement in Waverley. It is proposed that this service would be operated on a 12 month trial basis commencing in May 2018, and would be at no cost to Waverley, on the understanding that EHDC would keep a proportion of FPN income. This assumes that the level of penalties applied in Waverley are sufficient to make the scheme self-financing.
10. EHDC currently provides this service for several other local authorities including Havant, Hart, Chichester and Arun. These councils report positive results as a result of increased enforcement combined with publicity

campaigns with less littering and dog fouling and a cultural change in attitudes toward these issues.

11. The Head of Environmental Services recently visited East Hampshire to discuss the details of the proposal with service managers and enforcement officers. This provided reassurance that enforcement would be carried out in a professional and efficient manner, and that the focus for enforcement will be to reduce litter and not generate income.
12. Subject to the Executive agreeing the enforcement trial, the Head of Environment Services would agree operational procedures for the service, and arrangements for accepting payment for any FPNs issued. The Litter Enforcement Officers (LEOs) would work alongside our existing Environmental Enforcement Officers and compliment each other with Waverley's Environmental Enforcement Officers focussing on bigger fly tipping and other environmental issues and the EHDC LEOs focussing on littering and dog fouling.
13. The EHDC LEOs would use body worn video (BWV) which is turned on and used to gather evidence when issuing a FPN. To ensure that the LEOs are able to undertake their work effectively it will therefore be necessary to agree that the LEOs operate in Waverley in accordance with EHDC policy. Officers will confirm that this aligns with Waverley's policies.
14. If implemented, an approach for issuing FPNs to young persons will need to be agreed. In law a local authority FPN can be issued to anyone over the age of 10. Parents and guardians are not responsible in law for paying FPNs issued to young offenders (in this respect FPNs differ from police issued penalty notices for disorder). However, a court before which a young person appears for non payment of an FPN can order the parent/guardian to pay any fine it may impose.
15. EHDC have taken the decision not to issue FPNs to anyone under the age of 18 years unless there are special circumstances that have been agreed in advance. It is recommended that the same policy should be adopted in Waverley.
16. If implemented, it is proposed that LEOs will be given the freedom to enforce all public highway and Waverley owned land within the borough (including public car parks and countryside sites). In addition Parish Councils and local businesses will be consulted to see if they would wish the LEOs to enforce land within their ownership during the PSPO consultation.
17. FPNs could also be issued on people dumping rubbish at recycling bank locations where they are located on council-owned land, once a policy approach has been agreed.
18. Littering includes the dropping of cigarette butts and chewing gum.

19. EHDC would not intend to increase staff resources for the purposes of the trial, it is therefore proposed that enforcement will be targeted on those areas where the most littering occurs, on the basis of intelligence provided by Waverley and Parish and Town Councils.
20. Prior to any enforcement being carried out, it is proposed that a publicity campaign will be run to raise public awareness that enforcement is to be carried out.
21. A review of current litter bin provision will be carried out and additional bins installed where appropriate. Sufficient funding for this has been identified in the proposed 18/19 street cleaning budget.
22. It has been agreed that there will be no financial penalties should either party decide to terminate the trial before the end of 12 months.
23. The number of litter and dog fouling FPNs issued will be monitored and reported as a performance indicator in the Environmental Services service plan. In addition it is suggested that the Council's Environment Overview and Scrutiny Committee will consider a mid-trial report on performance.
24. Subject to this proposal being approved, the Head of Environment Services will agree terms for operation of the service with EHDC, work with the Communications Team to plan a publicity campaign, and work with the Environmental Services and Parking Manager to assess the need for new litter bin sites.
25. A further report will be brought to the Executive on completion of the 12 month trial to agree whether the litter enforcement arrangements should continue.

### **Financial Implications**

26. The proposal put forward by EHDC is a "no cost solution". As a consequence there are no additional financial implications for Waverley associated with the proposed enforcement activities which will also generate a small level of income which could initially be used to fund ongoing education and publicity work.

### **Recommendation**

It is recommended that the Executive:

- a. supports the proposal for a one year trial of litter and dog fouling enforcement in partnership with East Hants District Council;
- b. authorises the Head of Environmental Services to enter into a Agreement with East Hants District Council;

- c. supports the proposed introduction of Public Space Protection Orders (PSPOs) for dog fouling and other dog related issues; and
- d. agrees to set the level of Fixed Penalty Notices for littering and dog fouling at £100 with a discount to £75 for early payment within 14 days.

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