

|                          |   |   |                     |
|--------------------------|---|---|---------------------|
| <b>Subject:</b>          | <b>Update on Waste &amp; Litter Enforcement</b>                 |   |                     |
| <b>Date of Meeting:</b>  | <b>11<sup>th</sup> October 2016</b>                             |   |                     |
| <b>Report of:</b>        | <b>Executive Director of Economy, Environment &amp; Culture</b> |   |                     |
| <b>Contact Officer:</b>  | <b>Name:</b>  | <b>Richard Bradley</b>                      | <b>Tel: 29-4701</b> |
|                          | <b>Email:</b>   | <b>Richard.bradley@brighton-hove.gov.uk</b> |                     |
| <b>Ward(s) affected:</b> | <b>All</b>  |   |                     |

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 At the Policy & Resources Committee of 9<sup>th</sup> July 2015 a report was presented that set out the service priorities for City Clean. The report highlighted the need for increasing the level of enforcement activity around commercial waste and littering. The Environment, Transport & Sustainability committee of 13<sup>th</sup> October 2015 considered a detailed business case and authorised the procurement of a concession contract.
- 1.2 This report provides an update on the procurement and implementation of this new contact as part of the agreed 12 month trial.

**2. RECOMMENDATIONS:**

That the Environment, Transport & Sustainability Committee

- 2.1 Notes the progress made with regard the enforcement of fly-tipping, waste & litter offences.
- 2.2 Agrees with the approach outlined below with regard the enforcement of waste and littering offences.
- 2.3 Agrees with and delegates authority to the Executive Director of Economy, Environment & Culture to trial the introduction of CCTV cameras and the operational activities associated with this type of enforcement activity, to be funded through the proceeds of Fixed Penalty Notices.
- 2.4 Grants delegated authority to the Executive Director of Economy, Environment & Culture to develop a pro-active education and communications plan around the use of Fixed Penalty Notices and CCTV, funded through the proceeds of the Fixed Penalty Notices.
- 2.5 Grants delegated authority to the Executive Director of Economy, Environment & Culture to arrange a Member Seminar to enable officers and 3GS provide

detailed briefings on procedures, policies and legislation around the use of FPN's.

### **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 Fly-tipping, littering, fly-posting, uncontrolled distribution of leaflets, graffiti, inappropriate containment of business waste and the illegal disposal of commercial waste in communal bins are offences that can have a significant and detrimental impact of the city. Such activities increase the waste produced by the city and drive down recycling rates. They also have a cost implication in terms of cleansing, collection and disposal costs. An effective and robust approach to enforcement will have reduce instances of littering, will help reduce residual waste and thereby increase recycling rates.
- 3.2 Reflective of the lack of resource and expertise in this field, only 80 Fixed Penalty Notices were issued in the whole of 2014/15 and the service was unable to respond to the many requests for enforcement activity around the city.
- 3.3 Following approval from the Environment, Transport & Sustainability Committee in October 2015, an innovative procurement exercise was then conducted resulting in a zero cost contract with 3GS Ltd. The contract commenced on 1<sup>st</sup> of February and it is only reasonable that a period of bedding in for the new service is allowed, given this represents a long term behavioural change in approach to litter and waste related offences.
- 3.4 3GS provide enforcement services to a number of local authorities across the UK and employ a number of dedicated uniformed officers whose work programme is directed by the Council and provide a comprehensive service from the issuing of Fixed Penalty Notices, through to dealing with complaints and providing legal advice.
- 3.5 In comparison to the 80 Fixed Penalty Notices issued in the whole of 2014/15, from the date that actual enforcement activities commenced on the 15<sup>th</sup> of February up to the end of August 2016, a total of 1082 FPN's have been issued – a significant improvement on performance. The majority of FPN's issued are for littering offences (634), commercial waste offences (333), fly-tipping (37) and fly posting / graffiti (15).
- 3.6 In recognition that Enforcement Officers cannot be on patrol across the city at any one time and that fly tipping offences are often difficult to identify perpetrators due to the lack of evidential material, it is proposed to trial the introduction of CCTV cameras and the operational activities associated with this type of enforcement activity. This would be done in known '*hot spot*' areas and would be complemented by a pro-active education and communications plan around the use of Fixed Penalty Notices and CCTV, including improved signage and labelling on communal bins.
- 3.7 This would be in keeping with the approval from Policy & Resources Committee on 9<sup>th</sup> July 2015 and ETS on 13<sup>th</sup> October 2015 that highlighted the need for increasing the level of enforcement activity. This approach would further help reduce the levels of littering and fly-tipping across the city, will help reduce levels of residual waste thereby increasing recycling levels.

#### 4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 A full breakdown of Data and Financial information can be found at Appendix 1 '3GS Summary Report'. A total of 882 FPNs were issued of which 704 have been paid, equating to a percentage of 80% paid of those issued.

4.2 The breakdown of the FPNs issued is as shown below.

| Type                      | FPN's Issued | FPN's Paid | Amount         |
|---------------------------|--------------|------------|----------------|
| General Litter            | 7            | 5          | £375           |
| Cigarettes                | 605          | 480        | £36,000        |
| Chewing Gum               | 0            | 0          | £0             |
| Spitting                  | 14           | 8          | £600           |
| Food Waste                | 3            | 1          | £75            |
| 14 Day DOC                | 172          | 22         | £6,600         |
| S.34 as respects waste    | 8            | 3          | £225           |
| Free Printed Matter       | 34           | 24         | £1,800         |
| Fly-Posting & Grafitti    | 15           | 12         | £900           |
| Dog Fouling               | 1            | 1          | £75            |
| Commercial Waste          | 151          | 127        | £15,110        |
| Fly-Tipping               | 35           | 21         | £6,300         |
| Withdrawn 14 Day DOC      | -163         |            |                |
| <b>Total FPN's Issued</b> | <b>882</b>   | <b>704</b> | <b>£68,060</b> |

Note: Withdrawn 14 Day DOC – This is where businesses have produced their Duty of Care Certificate after the notice has been issued. Production of the document means that the FPN is withdrawn.

4.3 A total of 35 Flytipping FPNS were issued of which 21 have been paid.

4.4 With regard determining whether a penalty notice is waived, we deal with these unless through a formal complaint process and apply the letter of the law when determining this. As for the circumstances these would generally be;

- where qualified evidence is produced confirming a serious mental illness
- where the officer has acted over zealously and issued incorrectly i.e. technically before all of the points to prove the offence has actually been committed are present
- Where the offender has no permanent UK address. We won't accept interim addresses, such as hotels or hostels.
- Where the offender is a minor and was issued a notice due to not having appropriate proof of age at the time of the offence, and subsequently provides this
- Upon the receipt of a current and valid Duty of Care notice

- Where an alleged offender provides photographic evidence that proves they are not the person who received the FPN originally. (photographic evidence must be in the form of driving licence or passport)

The total amount of FPNs withdrawn is 14:

- 8 issued in error
- 6 under age

- 4.5 The fines paid generated from February to August 2016 inclusive is a total of £68060 from paid fines. A full breakdown can be seen at Appendix one.

3GS share £43,659.50

BHCC share £24,400.50

The amounts from paid FPNs will be reinvested into the service for example, the purchase of CCTV cameras. Cameras will be installed at known hotspots to enable the reduction of flytipping throughout the city. The cameras are mobile and therefore can be installed at alternative sites. Each site will be monitored to show how many FPNs have been issued using the CCTV evidence to ensure value for money.

- 4.6 With regards to dog-fouling, whilst FPN's will be served by 3GS if they catch any acts of dog fouling, the low number of FPN's issued (3) reflects the priority around waste and littering offences. This remit may be expanded upon and discussions could take place with 3GS around the most effective strategy to adopt.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The Council receives many reports and complaints about fly-tipping from the public. Residents who see and report both businesses and members of the public littering, fly-tipping and fly-posting rightly expect appropriate action to be taken.
- 5.2 The proposed trial use of CCTV will help identify those who commit fly-tipping and fly-posting, but who are difficult to catch and / or identify through the material deposited, thereby meeting demands from our residents and businesses.

## **6. CONCLUSION**

- 6.1 Enforcement activities are a long term approach to behavioural change aimed at reducing littering, fly-posting, fly-tipping and similar environmental related crimes. It is part of the strategy to help improve the cleanliness of the city, reduce residual waste levels and increase recycling rates.
- 6.2 The first 6 months have seen an increase in the number of FPN's issued from 80 issued in the whole of 2014/15 to 1082 in seven months – a 2219% improvement on performance.

- 6.3 This is not to say challenges don't remain and more measures are recommended in order to help identify those who commit crimes against the environment. This includes the trial use of CCTV, supported by develop a pro-active education and communications plan around the use of Fixed Penalty Notices and CCTV.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### **Financial Implications:**

- 7.1 The contract for waste and littering enforcement has been procured on the basis that there are zero costs to the Council and that a proportion of the income from FPN's are retained by the City Clean service.. It is anticipated that costs associated to the recommendations to this report will be funded from the income received by the council from the contract. All expenditure and income associated to the contract and report recommendations will be monitored as part of the budget monitoring process and any recurring financial implications incorporated into future year budgets.
- 7.2 It is anticipated that increased waste and litter enforcement activity will result in reduced costs to the council relating to waste disposal, street cleansing and responding to fly-tipping, fly posting and littering associated with flyers. It is difficult to accurately determine the financial implications of this and no assumption have currently been made within the approved budget.

*Finance Officer Consulted: Steven Bedford*

*Date: 30/09/16*

### **Legal Implications:**

- 7.3 The Environmental Protection Act 1990 (EPA) places a Duty of Care on the occupiers of all commercial and industrial premises to ensure adequate arrangements are made for the safe storage, collection and disposal of waste. Businesses are legally required to enter in to an agreement with a registered waste contractor to ensure they meet their legal obligations. Failure to do so may result in a Fixed Penalty Notice being served under the EPA. Other offences arise under the EPA 1990 in relation to illegally dumped waste, littering, fly posting and so on.
- 7.4 This proposal involves the deployment of funds generated by means of Fixed Penalty Notices on a cost neutral basis in order to fund the installation and maintenance of CCTV cameras in specific public spaces which have been identified as 'hot spots' for the illegal dumping of waste. It is proposed that CCTV will be introduced for a trial period alongside a campaign of education, communications and signage which has as its primary aim the reduction of fly tipping and related activity. It is anticipated that the use of appropriate signage and other publicity measures will ensure that the surveillance is not covert but rather overt and - because not directed surveillance in the terms specified in the Regulatory of Investigatory Powers Act 2000 - not subject to the prior authorisation requirements imposed by that Act.

- 7.5 Any use of CCTV by the Council is subject to statutory guidance issued in the form of the Surveillance Cameras Code of Practice pursuant to section 30 of the Protection of Freedoms Act 2012. The Council has a duty to have regard to the Code and to ensure that it deploys CCTV only where it is satisfied that doing so meets a pressing need and where the use of it is proportionate. When formulating these proposals, the Council has had regard to the guiding principles in the Code. Any arrangements it makes in relation to CCTV will be made in such a way as to ensure compliance with the Code and with regard to individuals' rights to respect for their private and family life, home and correspondence as articulated in article 8 of the European Convention on Human Rights. If agreed the steps outlined here will be taken only where it is considered that they represent a proportionate response to the illegal waste disposal issues which have been identified and where appropriate steps have been put in place to ensure that CCTV is used only in accordance with clear rules, policies and procedures.

*Lawyer Consulted: Elizabeth Culbert*

*Date: 21/09/2016*

**Equalities Implications:**

- 7.4 There are no equalities implications.

**Sustainability Implications:**

- 7.5 The additional enforcement activity will improve the environment by reducing fly tipping, fly posting and littering.

**Crime & Disorder Implications:**

- 7.6 The report seeks to address illegal and anti-social behaviour and will have a beneficial impact on crime and disorder.

**Public Health Implications:**

- 7.7 The report seeks to improve the local environment which will have a beneficial impact on public health

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. 3GS Summary Report

**Documents in Members' Rooms**

1. None

## Background Documents

1. None

