

Subject:	Environmental Enforcement Update		
Date of Meeting:	25 June 2019		
Report of:	Executive Director, Economy, Environment & Culture		
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Ward(s) affected:	(All Wards);		

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

- 1.1 Fly-tipping, littering, fly-posting, uncontrolled distribution of leaflets, graffiti, inappropriate containment of business waste and the illegal disposal of business waste in communal bins are all examples of environmental offences. These activities can have a significant and detrimental impact on the city, increasing the waste produced and reducing recycling. They also have a cost implication in terms of cleansing, collection and disposal.
- 1.2 The Environment, Transport & Sustainability (ET&S) Committee approved the Environmental Enforcement Framework at its meeting on 27 November 2018. At this meeting, Members also agreed to bring the service in-house. This report provides an update on service delivery.
- 1.3 Having been operational in-house since 1 March 2019, further offences have been identified that should be included in the Environmental Enforcement Framework to reduce the impact environmental crimes have in Brighton & Hove.
- 1.4 Furthermore, following a number of complaints about commercial waste bins on the highway, City Environment has completed an options appraisal on how best this can be managed. This report presents the preferred approach and seeks approval to consult with businesses, waste management providers and residents to obtain their views.

2. RECOMMENDATIONS:

- 2.1 That the Committee approves the updated Environmental Enforcement Framework as detailed in Appendix 1.
- 2.2 That the Committee approves permission to consult on the preferred approach for managing commercial waste bins on the highway as detailed in Appendix 2.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The purpose of environmental enforcement is to:
- enforce certain environmental legislation
 - improve the cleanliness of the city
 - issue Fixed Penalty Notices (FPNs) in the city for the offences detailed in section 5 of the Framework in Appendix 1
 - enable the council to be more responsive to commercial waste offences and to incidents of fly-tipping
 - encourage behavioural change to reduce environmental crimes
 - minimise waste clean-up and disposal

3.2 Between 1 February 2016 and 28 February 2019, 3GS were delivering the service on behalf of the council. At its meeting in November 2018 ET&S Committee agreed to bring the service in-house from 1 March 2019. 3GS staff were successfully TUPE-ed into the council and became council employees on 1 March 2019.

3.3 For the first few weeks of the council service, Environmental Enforcement Officers were deployed to educate residents and businesses across the city of their responsibilities with regards environmental issues. This included talking to those observed committing an offence and issuing letters to businesses highlighting the arrangements they must have in place to avoid getting an FPN. This approach received positive feedback.

3.4 The team began issuing FPNs on 8 April, issuing 238 up to 9 June:

Offence	Number of FPNs issued	Number of FPNs paid
Littering	110	81 (67 at the reduced rate)
Residential fly-tipping	24	5
Disposing of commercial waste illegally	48	24
Industrial or commercial waste receptacle offence	45	24
Fly-posting	3	3
Unauthorised flyering	5	3
Dog fouling	1	1
Graffiti	2	2

Updates to the Environmental Enforcement Framework

3.5 The Environmental Enforcement Framework at Appendix 1 was developed to address antisocial and illegal behaviour to improve the environment and minimise waste clean-up and disposal costs. The Framework sets out the standards that will be applied when issuing FPNs for environmental offences and what residents, businesses and visitors can expect from Brighton & Hove City Council.

- 3.6 Bringing the service in-house presented an opportunity to enhance the Framework and include further offences. The updated Framework is included at Appendix 1. Updates include:
- The inclusion of spitting, urinating and defecating as offences, warranting a £75 fine and no early payment discount
 - The inclusion of Community Protection Notices as an enforcement option to protect the quality of life in a community from the negative effects of unwanted behaviour
 - Changes to how some offences are processed
- 3.7 FPNs for spitting, urinating and defecating can be issued under section 87 of the Environmental Protection Act 1990. Spitting, urinating and defecating are regarded as anti-social habits and can have a number of health implications. Given the prevalence of these activities within city, it is recommended that this offence is included in the Framework to make it clear that this behaviour is not tolerated.

Managing commercial waste bins on the highway

- 3.8 City Environment has received a number of complaints about commercial waste bins on the highway, including their placement and the volume of them. Where commercial bins are causing an obstruction on the highway the council will take enforcement action to ensure the bin is moved. Where complaints have been made about Brighton & Hove City Council commercial waste bins, efforts have been made to find alternative locations. Where complaints have been made about other commercial bins council officers have requested that they are moved but this has not always been complied with. However, beyond this the council's current Environmental Enforcement Framework does not set out the council's approach to controlling the placement of commercial bins on the highway.
- 3.9 Brighton & Hove City Council previously enforced against commercial waste bins on the highway but this service stopped in approximately 2009. Since this date there has been a proliferation of commercial bins placed in certain central locations of the city. These bins can attract fly-tipping, side waste and graffiti. In some cases there are large numbers of bins in residential streets some distance from businesses and this can be the cause of nuisance to residents and is detrimental to the cleanliness and aesthetics of some areas of the city.
- 3.10 To enable Environmental Enforcement Officers to take action, City Environment wishes to complete a public consultation on the preferred approach for managing and enforcing on commercial waste bins on the highway. Dealing with commercial waste bins in a more managed will bring benefits, including improved access to the highway and improved cleanliness. However, it is not without its limitations which will impact on how businesses manage their waste. It is for this reason that City Environment wishes to undertake a public consultation to better understand the implications of the preferred scheme and hear from those that may have other ideas about to how to deal with this issue.
- 3.11 Following the options appraisal (see appendix 2), the preferred approach is to introduce time banding for bins on the highway, the parameters of which will determine where and when commercial bins can be placed on the highway or council owned land in the city. This will be complemented by the use of Section

47 notices under the Environmental Protection Act 1990. Under section 47, the council, as waste collection authority, can serve a notice on businesses requiring them to keep their commercial waste in receptacles and can include provisions in the notice regarding the type of receptacles and where they can be stored. Should the conditions set out in the Section 47 notice be breached, an FPN can be issued.

- 3.12 It is proposed that a consultation on the preferred scheme is carried out with commercial waste service providers, businesses who require commercial waste services, residents of the city and other interested parties such as the Tourism Alliance, Neighbourhood and Residents Associations and Local Action Teams.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 An options appraisal was completed to identify the ways in which the council could better manage commercial waste bins on the highway.
- 4.2 The preferred approach is detailed in section 3.11.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 This update to the Environmental Enforcement Framework has been informed by feedback from the public and Environmental Enforcement Officers based on the incidents they have observed.
- 5.2 Appendix 2 details the consultation approach City Environment will take to agree the most appropriate method of managing and enforcing on commercial waste bins on the highway.
- 5.3 The Framework will continue to be regularly reviewed to take into account stakeholder feedback and any changes will be brought back to Committee for approval.

6. CONCLUSION

- 6.1 The Environmental Enforcement Service delivers the objectives as detailed in section 3.1. To enhance this, additional offences have been identified for inclusion in the Framework to further improve the cleanliness of the city and enable the council to be more responsive to commercial waste offences.
- 6.2 The outcomes of the public consultation on the preferred option for managing commercial waste bins on the highway will be brought back to Committee for Members to approve the preferred approach and incorporate into the Environmental Enforcement Framework.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The various environmental offences mentioned in this report all have cost implications in terms of cleansing, collection and disposal. The net revenue implications of bringing the environment enforcement service in house was

anticipated to generate a small annual surplus. Any significant variation to approved budgets will be reported as part of the council's budget monitoring process.

- 7.2 It is anticipated that the recommended Environmental Enforcement Framework will allow effective enforcement and the introduction of offences not previously enforced. The introduction of new offences is to expected to have a net favourable financial impact from increased fines and by acting as a deterrent resulting in reduced responsive cleaning and disposal. Surplus income from Fixed Penalty Notices are ring fenced to support specific environmental purposes and any surplus income after associated costs are allocated to a specific reserve.
- 7.3 Costs associated to the consultation on the preferred approach for managing commercial waste bins on the highway are expected to be minimal and will be funded from approved revenue budgets within the City Environment service. It is anticipated that the preferred approach will result in additional administration and enforcement, however it is anticipated that this can be met from existing resources. In the event that net costs significantly exceed expectations, this will be reported as part of the council's budget monitoring process and mitigations to reduce the impact on councils budgets will need to be considered.

Finance Officer Consulted: Steven Bedford

Date: 10/06/2019

Legal Implications:

- 7.4 The legal basis for the proposed updates to the enforcement framework and approach in relation to managing commercial waste bins on the highway are set out in the report.
- 7.5 The income from fixed penalties can only be used in relation to the council's "qualifying functions". For example, fixed penalty income from litter, graffiti, dog control, fly-posting, and unauthorised distribution of free printed material in a designated area can be spent on functions relating to litter, dog control, graffiti and flyposting. Defra guidance is clear that fixed penalties should only be issued when it is in the public interest and proportionate to do so and these considerations are always adopted before any action is taken in respect of non-payment of FPNs.

Lawyer Consulted: Elizabeth Culbert

Date: 10/06/2019

Sustainability Implications:

- 7.6 Environmental enforcement activity improves the environment by reducing littering, dog fouling, fly-tipping, graffiti, fly-posting and littering associated with flyers. Enhancing the Environmental Enforcement Framework allows the council to further protect the environment from these detrimental activities.

Crime & Disorder Implications:

- 7.7 Environmental enforcement addresses illegal and anti-social behaviour and has a beneficial impact on crime and disorder.

Corporate / Citywide Implications:

- 7.8 Environmental enforcement activities will make the city a more attractive place for residents and visitors and support the visitor economy.

SUPPORTING DOCUMENTATION

Appendices:

1. Updated Environmental Enforcement Framework
2. Options appraisal for managing commercial waste bins on the highway

Background Documents

1. [Environmental Enforcement Framework](#) (November 2018)