

Subject:	Environmental Enforcement Framework Update		
Date of Meeting:	22 June 2021		
Report of:	Executive Director, Economy, Environment & Culture		
Contact Officer:	Name:	Lynsay Cook	Tel: 01273 292448
	Email:	Lynsay.cook@brighton-hove.gov.uk	
Ward(s) affected:	All		

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

- 1.1 Fly-tipping, littering, graffiti, fly-posting, uncontrolled distribution of leaflets, inappropriate containment of business waste and the illegal disposal of business waste 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 To tackle this anti-social and illegal behaviour, the Environment Transport & Sustainability Committee approved the Environmental Enforcement Framework on 27 November 2018. Further updates were approved on 25 June 2019 and 29 September 2020. This report is seeking approval to update the Environmental Enforcement Framework and related activities.

2. RECOMMENDATIONS:

- 2.1 That the Environment, Transport & Sustainability Committee approves the updated Environmental Enforcement Framework as detailed in Appendix 1 (tracked changes version) and Appendix 2 (clean version).
- 2.2 That Environment, Transport & Sustainability Committee approves for a public consultation to take place on introducing enforcement measures for householders not complying with waste receptacle requirements.

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 The Environmental Enforcement Framework is reviewed on a regular basis to consider additional offences to be included to address anti-social and illegal behaviour and to minimise waste clean-up and disposal costs. This update includes additional offences for inclusion following the public consultation on commercial bins on the highway and more information on the application of the Dogs Exclusion Control Order.
- 3.3 As per the legislation, the income from fines paid are used to cover the costs of the environmental enforcement service. Any surplus income is ring-fenced to spend on environmental improvement projects in line with legal requirements.
- 3.4 As new enforcement activity is introduced to the Environmental Enforcement Framework, consideration will need to be given to increasing the number of Environmental Enforcement Officers. As the service is self-funding this needs to be balanced against the generation of fine income.

Commercial bins on the highway

- 3.5 Subject to the recommendations in the Commercial bins on the highway report being approved by Members, the Framework will be updated to include relevant offences. The offences will become live on 1 February 2022.

Dogs Exclusion Control Order

- 3.6 Following feedback, the Framework has been updated to include the details of the land for where Dog Exclusion Control Orders apply. The areas are detailed in section 14 of the Framework.
- 3.7 The inclusion of Dog Control Orders in the Framework was approved at Environment, Transport & Sustainability Committee on 29 September 2020, following the agreement to continue the use of Public Space Protection Orders at Tourism, Equalities, Communities & Culture Committee on 24 September 2020.

Household waste bin offences

- 3.8 Following feedback and some concerns about the use of household waste receptacles i.e. wheelie bins and boxes, Cityclean has been asked to explore whether household waste bin offences can be added to the Framework.
- 3.9 Section 46A of the Environmental Protection Act 1990 allows for FPNs to be issued where householders are causing harm to the local environment by not following the rules pertaining to household bins and boxes. As detailed in the [Defra guidance](#), local authorities can issue a FPN when householders do not follow the waste collection rules and their failure to comply either:
- Causes or is likely to cause a nuisance, or
 - Has a negative effect or is likely to have a detrimental effect on local amenities
- 3.10 FPNs can be issued if householders put waste out that:

- Causes an obstruction, such as forcing people using wheelchairs or buggies to walk on the road
- Restricts access to the pavement or street, for example leaving waste receptables (bins or boxes) out for several days
- Is likely to attract vermin, such as leaving bags or open receptables out days before a waste collection
- Is unsightly, such as overturned receptables being left

3.11 Three stages must be adhered to:

- A written warning: explaining how the householder has broken the rules, how this has (or is likely) to cause a nuisance or have a negative effect on local amenities, what they must do, how long they've got to fix the problem and what will happen if they don't comply
If the householder does not comply, the council can move to stage 2
- A notice of intent: telling the householder they may get a FPN, the reasons why and how much they'll have to pay
- A final notice: can be issued 28 days after the notice of intent. Any feedback received from the householder must be considered before this happens.

3.12 A proportionate approach would be taken to any enforcement measures, considering local circumstances, such as available room to store a bin. Cityclean acknowledges that bins are issued to households where the only option is to store them on the highway.

3.13 Members are asked to approve for a public consultation to take place on enforcement measures for householders not complying with waste receptacle requirements.

Service delivery

3.14 The pandemic meant that some environmental enforcement activities were suspended. The service has returned to business as usual operations and the following have been issued over the last 13 months:

Offence	FPNs issued 01/04/2020-31/03/2021	FPNs issued 01/04/2021-24/05/2021
Littering	871	171
Littering from vehicles	8	6
Unauthorised Flyering	5	3
Fly posting	2	2
Graffiti	5	1
Fly-tipping	499	81
Disposing of commercial waste illegally	398	96
Failure to produce waste transfer note	98	32
Non-compliance duty of care certificate	149	50
Spitting, urinating or defecating	25	17

Dog fouling	2	0
Dogs on lead	2	0
Dog exclusion	23	23
Total	2087	482

- 3.1 Since October 2020, 14 mobile CCTV cameras have been installed at hotspot sites across the city. 185 FPNs have been issued to fly-tippers and there has been a noticeable difference in the cleanliness of these sites. Fly-tipping continues to be monitored and the cameras will be deployed to other areas as necessary.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 If the Environmental Enforcement Framework is not approved or updated, offences will be carried out, but no enforcement measures in place.
- 4.2 The public consultation will seek views on measures for householders not complying with waste receptacle requirements to reduce the nuisance and harm caused to the local environment.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Internal BHCC stakeholders have been consulted on the development of the Framework to date. The Framework complements the Highways Policy and the Delegated Powers assigned to Field Officers, which both deal with other areas of environmental enforcement.
- 5.2 The introduction of Dog Control Orders in the Framework has been subject to a public consultation on PSPOs. Community engagement on further aspects of environmental enforcement will be completed via the public consultation.
- 5.3 The Framework will continue to be regularly reviewed to consider stakeholder feedback and any changes will be brought back to Committee for approval.
- 5.4 The results of the public consultation on introducing enforcement measures for householders not complying with waste receptacle requirements will be presented to a future Environment, Transport & Sustainability Committee to inform future decision making.

6. CONCLUSION

- 6.1 The Environmental Enforcement Service delivers the objectives as detailed in section 3.1. To enhance this, additional measures have been identified that will deliver those objectives.
- 6.2 The outcomes of the public consultation will be brought back to Committee for Members to approve the final approach, if any, for inclusion in the Environmental Enforcement Framework.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications from the Environmental Enforcement Framework. Costs associated with public consultation regarding Household waste bin offences will be contained within existing City Clean Budgets. Any surplus income from Fixed Penalty Notices, as set in paragraph 3.3 of this report, are legally ring fenced to support specific environmental purposes. Additional spend is expected to be funded from additional income and any significant variation to budget will be reported as part of the council's monthly budget monitoring process.

Finance Officer Consulted: John Lack

Date: 09/06/2021

Legal Implications:

- 7.2 The Environmental Enforcement Framework sets out the statutory background to the environmental offences referred to therein. The statutory background to non-compliance with household waste receptacle requirements is referred to in this report.

Lawyer Consulted: Hilary Woodward

Date: 27/05/2021

Equalities Implications:

- 7.3 As per the Environmental Enforcement Framework, a FPN will not be issued when enforcement action is inappropriate. This may include when the offender is vulnerable; for example, someone who is a rough sleeper or suffers from a mental impediment.

Sustainability Implications:

- 7.4 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:

- 7.5 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 (tracked changes)
2. Updated Environmental Enforcement Framework (clean)

Background Documents:

1. [Environmental Enforcement Report](#) presented to Environment, Transport & Sustainability Committee on 27 November 2018 (item 46)
2. [Environmental Enforcement Update](#) presented to Environment, Transport & Sustainability Committee on 25 June 2019 (item 11)
3. [Public Space Protection Orders Dog Control, Alcohol in Public Places and Gating](#) presented to Tourism, Equalities, Communities & Culture Committee on 24 September 2020 (item 32)
4. [Environmental Enforcement Framework Update](#) presented to Environment, Transport & Sustainability Committee on 29 September 2020 (item 31)