



## Cabinet

### Report of: Councillor Dr Peter Moseley Cabinet Member for Environment

Report to:	<b>Cabinet</b>
Date:	<b>12<sup>th</sup> April 2018</b>
Subject:	<b>Enviro Crime Enforcement Policy- Report Number ENV686</b>

<b>Decision Proposal:</b>	Key Decision
<b>Relevant Cabinet Member:</b>	Councillor Dr Peter Moseley Cabinet Member for Environment
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<b>Approved for publication:</b>	Councillor Dr Peter Moseley, Cabinet Member for Environment Date: 19.03.2018

#### **SUMMARY**

A draft Enviro Crime Enforcement Policy has been developed in line with the Council's ambition to maintain a much improved environment across the district.

Members of the Environment Overview and Scrutiny Committee considered a range of options in connection with the Council's approach to enforcement to stop those who continue to commit enviro crimes such as littering, fly tipping, graffiti and other associated anti-social behaviours.

This draft policy has been endorsed for approval by the Environment Overview and Scrutiny Committee following a debate at their meeting on 20<sup>th</sup> February 2018.

## **RECOMMENDATION**

It is recommended that Cabinet:

1. Adopts the Enviro Crime Enforcement Policy attached at Appendix 1 to this report.
2. That the Fixed Penalty Notice charges remain at the levels proposed by Council until they can be reviewed based on experience.
3. Supports the principle of delivering the enforcement service through alternative council owned delivery arrangements.

## **1. BACKGROUND TO REPORT**

- 1.1 The Council is committed to improving the attractiveness of the district as was demonstrated through the delivery of the Big Clean project providing a much improved street environment. This in turn supports the Council's overriding objective to encourage economic growth by assisting in our aim to make the district attractive to investors, residents and visitors.
- 1.2 In addition to providing the necessary resources to maintain our higher street standards consideration should also be given to how we can provide appropriate enforcement to stop those who continue to commit enviro crimes such as littering, fly tipping, graffiti and other associated anti-social behaviours.
- 1.3 For many of the offences the Council can use Fixed Penalty Notices (FPNs). A FPN can be served on an individual or business for an offence. It offers the recipient the opportunity to pay a penalty rather than being taken to court and prosecuted. By paying the FPN the recipient discharges their liability to conviction for the offence for which the FPN was issued.

## **2. Enviro Crime Enforcement Policy**

- 2.1 An all Member workshop was held in December 2017 to explore the various options available to the Council for the main areas of environmental crimes.
- 2.2 The areas considered were:
  - Littering
  - Fly tipping
  - Dog fouling
  - Dog control
  - Graffiti
  - Domestic waste
  - Commercial waste
- 2.3 In addition to the above, reference to fly posting, abandoned vehicles and nuisance parking have also been included in the draft policy for completeness. The ability to issue FPNs to householders failing in their 'duty of care' when transferring waste to third parties may be legislated for by the Government in due course.

2.4 For each of the environmental crimes detailed above, six key questions and associated options available were considered:

- When would a fixed penalty notice be issued?
- What age group would be issued a penalty?
- What appeal process, if any, should be available?
- What should the level of fine be?
- Would early payments be allowed?
- What action would be taken for non-payment?

2.5 The feedback from the workshop produced some common themes and these can be summarised as follows:

- FPNs will, in the main, be issued when authorised officers have witnessed an offence. Warnings will not be given first as has been the case to date
- FPNs will be issued to offenders aged 16 or above
- An appeals process will be in place around an agreed framework
- The levels of fine will be increased to reflect the seriousness of the offence with no early payment reductions
- All non-payment cases will be considered for court action

2.6 The draft Enviro Crime Enforcement Policy as attached at Appendix 1 was developed following the workshop and is based on current statutory legislation and the views of Members.

2.7 The Committee endorsed the draft policy at this meeting and recommended it to the Cabinet Member for Environment for adoption. The Committee also recommended that the penalty relating to enviro crime be increased to the current maximum level set by central government which, for littering, graffiti and fly-posting increased to £150 from the 1<sup>st</sup> April 2018. This recommendation differs from the approach taken by members through the fees and charges process through which the default fine level (£100) was set for these offences rather than the maximum.

2.8 Having investigated the Environment Overview and Scrutiny recommendation to increase the penalty to the government maximum it was considered that this level of increase for littering offences would be disproportionate at this time. The increase has the potential to significantly impact on the payment rate in relation to penalties awarded and subsequent additional enforcement costs which may not be recovered. This should be reviewed in due course based on future operational experience.

### **3. OTHER OPTIONS CONSIDERED**

3.1 Various options for the response to each offence were considered in the workshop. Following feedback Members wished for the public space protection order (dog control) to be reviewed to consider the inclusion of extra conditions relating to dog fouling and a requirement to carry the means to pick up dog waste.

### **4. RESOURCE IMPLICATIONS**

4.1 This report is seeking support for the enforcement policy relating specifically to environmental crimes. Work has been undertaken to assess options for increasing the levels of enforcement which do not incur an additional financial burden on Council Tax payers. In order to achieve this, the utilisation of a local authority owned company may offer the best solution as it would provide an opportunity to develop separate income streams at the same time as providing a comprehensive enforcement service across the district. Financial provisions have been made in the 2018/19 budget.

### **5. RISK AND MITIGATION**

5.1 The Council's reputation could be affected/impacted on by stronger enforcement so clearly communicating to all stakeholders the reasons for such an approach will be paramount.

### **6. ISSUES ARISING FROM IMPACT ANALYSIS**

6.1 Equality analysis has been undertaken in relation to this Policy and is attached at Appendix 2.

### **7. CRIME AND DISORDER IMPLICATIONS**

7.1 There is a clear connection between standards of cleanliness and environmental crime, as well as significantly impacting upon the environment, this can encourage more serious forms of anti-social behaviour. This approach should have a positive impact by assisting in delivering an improved street scene environment.

### **8. COMMENTS OF FINANCIAL SERVICES**

8.1 As stated at section 4 of the report, the financial considerations relating to the policy have been included in the budget proposals for 2018/19 which were approved by Council on 1<sup>st</sup> March 2018. An appraisal, including financial considerations has been undertaken in respect of enforcement arrangements going forward.

## **9. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

9.1 The offences for which a fixed penalty notice can be issued are set out in various Acts and the enforcement procedures and processes will need to comply with the relevant legislation. In addition to the legislation relating to the offences, there are other areas of legislation that will also need to be considered and complied with, these include but are not limited to the Human Rights Act 1998, the Police and Criminal Evidence Act 1984 in connection with the investigation and prosecution of criminal offences and where the use of covert directed surveillance is deemed appropriate, for example, by using hidden CCTV cameras, the appropriate authorisations under the Regulation of Investigatory Powers Act 2000 (as amended), will be required.

## **10. COMMENTS OF OTHER RELEVANT SERVICES**

10.1 None

## **11. APPENDICES**

Appendix 1 Draft Enviro Crime Fixed Penalty Notice Policy

Appendix 2 Equality Impact – Initial Analysis

## **12. BACKGROUND PAPERS**

[Report to Environment Overview and Scrutiny 20 Feb 2018](#)

[SKDC Corporate Enforcement Policy](#)

[SKDC Environmental Services Enforcement Policy](#)