

**MAIDSTONE BOROUGH COUNCIL**

**CABINET MEMBER FOR THE ENVIRONMENT**

**REPORT OF ASSISTANT DIRECTOR FOR ENVIRONMENT AND  
REGULATORY SERVICES**

**Report prepared by Martyn Jeynes**

**Date Issued: 24 June 2010**

**1. EXPANDING ENVIRONMENTAL ENFORCEMENT ACTIVITY**

**1.1 Issue for Consideration**

- 1.1.1 To provide a far more effective environmental enforcement arrangement within the borough at no additional cost to local taxpayers.

**1.2 Recommendation of the Assistant Director of Environmental Services**

- 1.2.1 That Xfor Local Authority Support Services (Xfor LASS) is utilised to provide additional wardens to directly tackle street litter and other environmental crimes across the borough.
- 1.2.2 That a range of publicity is undertaken to highlight the more proactive approach to enforcement in the borough.

**1.3 Reasons for Recommendation**

Introduction and Background

- 1.3.1 In recent years the level of cigarette litter has increased significantly, mainly as a result of changes to smoking legislation.
- 1.3.2 The Council as looked at ways of encouraging residents and visitors not to drop litter but surveys such as the national Place Survey has highlighted that satisfaction with street cleanliness has not been lower than other Council Services.
- 1.3.3 Whilst resources have been reorganised to provide a more efficient street cleaning arrangement levels of littering remain a concern.

- 1.3.4 The Council has therefore decided to take a more proactive role in tackling the root cause of the problem by increasing the number of officers on the ground
- 1.3.5 The Clean Neighbourhoods and Environment Act 2005 (2005 Act) gave the Council powers to utilise fixed penalty notices for litter offences. Since the introduction of the 2005 Act the available resources for this work have reduced. Changes have been made to improve the work programme of the current uniformed officers utilising intelligence driven enforcement and improved procedures, however, providing a dedicated litter enforcement service has not been possible.
- 1.3.6 The position has also been compounded by the introduction of the Public Health Act 2007 and related no smoking legislation which has significantly increased the amount of cigarette litter in the UK.
- 1.3.7 Since the previous place survey and feedback from residents and officers the Council has been looking at how our approach to littering could be improved. This is a difficult area as the aim was firstly prevention and then to deal with anyone who does drop litter.
- 1.3.8 The Council has recently changed the street cleaning operation within the borough to a more area based model of working. This is working very well but there are issues with the level of litter that is dropped by the public.
- 1.3.9 Although levels of litter are not substantial this does impact on the public perception of Maidstone as a place to live and work as well as satisfaction with the Council. Some enforcement work is undertaken but the Council does not have the capacity or financial resources to be proactive across the borough.
- 1.3.10 The option of working alongside a private sector provider has been considered and as well as having the advantage of their experience in this area of work provides value for money for local taxpayers.
- 1.3.11 It is proposed to carry out a trial period of six months where a private company would work alongside council officers across the whole borough.
- 1.3.12 The company that has been chosen to work alongside Council officers is the Xfor Group who has a track record of supporting local authorities in the delivery of environmental enforcement.
- 1.3.13 This initiative has also been discussed with the Police and the new Borough Commander who is very supportive of the new approach.

- 1.3.14 The Local Government Act 2003, Section 119 allows local authorities to keep the resources from fixed penalties issued against certain offences. The Act states that the monies collected should be utilised to provide additional spending to enhance the local environment. The aim is for the initiative to be self funding.

#### The New Operational Arrangements

- 1.3.15 It is proposed to introduce the new service from the 1 July 2010, this would run for six months until the end of December. The service will operate across the whole of the borough with enforcement officers working during the daytime and evening.
- 1.3.16 Any enforcement activity will be the final stage with the promotion of a cleaner, greener borough and a more visible presence also having an impact on littering in the borough.
- 1.3.17 The number of officers that will be provided by Xfor is governed by the enforcement expectation of the authority. To support the new approach on litter it is estimated that up to 100 fixed penalties would be issued per week.
- 1.3.18 Xfor will also provide a range of support systems and administrative resources to assist with the correct issuing of tickets, appeals and the payment of fixed penalty notices.
- 1.3.19 Deployment of the officers within the borough will be controlled by a designated council officer. This will also be informed through work with partner organisations and also feedback from MBC staff within environmental services.
- 1.3.20 Discussions have also taken place with the Police at a senior officer level and with various departments within the Council. This has included the street cleansing team (to highlight particular areas where litter levels are higher) and also Legal Services in relation to Council prosecutions.
- 1.3.21 It is also recommended that through the Communications Team a range of publicity material is produced for the local press. This will highlight the need to keep the borough clean and the 'zero tolerance' element - so once litter is dropped an offence has been committed and there is no going back on that point. In addition to ensure that the public are aware that this initiative will not result in additional funds for the council but should improve the local environment.

- 1.3.22 Following the recent senior staffing reorganisation, an opportunity has been taken to update the overall Enforcement Policy which is attached for information (Appendix 1).
- 1.3.23 This should ensure that enforcement decisions are always consistent, balanced, fair, transparent, and proportional and relate to common standards to ensure the public are adequately protected.
- 1.4 **Alternative Action and why not Recommended**
- 1.4.1 The Council could decide to do no additional work on enforcement across the borough and leave the position as it is currently. However, levels of litter and in particular cigarette litter have increased in recent years and is impacting on the profile of the borough.
- 1.4.2 The Council could employ additional officers to undertake the work instead of Xfor. However, the Council would not have access to the systems for checking details and as well as the recruitment exercise and training for the officers additional support staff would be required. By also undertaking a pilot there is no long term costs and the initiative can be reviewed and assessed at key stages.
- 1.4.3 The Council could approach other agencies. However, whilst other agencies may be able to provide officers with a similar background, Xfor provide a unique package which also provides management and administrative support alongside the enforcement officers.
- 1.4.4 The council could decide just to proceed with the scheme without any publicity, but prevention is a key element of the Council's overall strategy and it is important to highlight the new working arrangements.
- 1.4.5 The Council could also decide not to agree the updated enforcement policy at this stage but given the recent reorganisation and this particular initiative it was felt that this was a timely piece of work.
- 1.5 **Impact on Corporate Objectives**
- 1.5.1 A place that is clean and green  
The objective of the Environmental Enforcement team has been to provide a zero tolerance response to litter, however, the current resources do not allow the authority to enforce its position strongly. The additional resources will help to provide a more visible presence and increase the likelihood that those people who deface the environment will be caught and punished.

- 1.5.2 A place that has strong, healthy and safe communities  
The links between litter and vermin and their associated diseases are obvious but the impact of litter and other environmental crimes has a more detrimental affect as one of the wider determinants of health.
- 1.5.3 Poor physical environment is also associated with fear of crime, which has significant detrimental effects on the health of a neighbourhood. Fear of crime and anti-social behaviour will lead to social exclusion within a community and therefore also weakens our communities.
- 1.6 **Risk Management**
- 1.6.1 Corporate image
- 1.6.2 Strong support for increased enforcement against litter has been documented from surveys undertaken in 2009/10 including the fast food litter campaign survey and the more recent street cleansing review and public consultation in Park Wood.
- 1.6.3 However, the use of fixed penalties has often been seen by some people as being a means of increasing revenue. The objective of the six month trial is to tackle litter in a proactive way to help deliver the corporate objectives. The aim is to cover the running costs (including legal fees) within the fee received from the fixed penalty notice.
- 1.6.4 The initiative would provide a stronger response to litter and there is a risk to the authority's reputation should the initiative be perceived as being heavy handed. Operational arrangements will be closely monitored with regular meetings with Xfor management. References are also being taken up with two Councils where Xfor is currently providing a similar service.
- 1.6.5 The proposed trial and the associated media will be managed closely by the communications team. Whilst the Council has displayed banners and posters throughout the borough, for many years, which detail the fine for littering, press releases and localised posters would be used in the launch and early delivery of the campaign.

1.7 **Other Implications**

1.7.1

1. Financial
2. Staffing
3. Legal
4. Equality Impact Needs Assessment
5. Environmental/Sustainable Development
6. Community Safety
7. Human Rights Act
8. Procurement
9. Asset Management

x
x
x
x
x

1.7.2 Financial

1.7.2.1 It is anticipated that the trial will be self funding in that income from fixed penalty tickets issued will meet the costs of payment to Xfor and related legal fees.

1.7.2.2 The scheme will be reviewed after three months to ensure it remains cost neutral.

1.7.3 Staffing

1.7.3.1 Supplementary staff will all be based out of Maidstone House.

1.7.4 Legal

1.7.4.1 Legal action will be considered on a case by case basis and for any cases that come to court full costs will be sought by the Council. Discussions have taken place with the Legal Practice Manager on the operating arrangements.

1.7.4.2 Evidential controls will ensure that the fixed penalties issued could proceed to prosecution. Xfor adopt a number of control measures when issuing fixed penalties.

- 1.7.4.3 To support the initiative it is imperative that where the evidence allows and a public interest test is met that cases are prosecuted in accordance with the revised Enforcement Policy for Environmental Enforcement (Appendix 1). It is estimated from the recent successful prosecution for littering in Staplehurst, that the cost of taking a prosecution for littering would be approximately £150 per case. A significant number of cases could therefore be taken utilising the receipts from paid fixed penalties should it be necessary to do so. Costs will also be requested at the magistrate's court as part of sentencing.
- 1.7.4.4 Taking blocks of prosecutions to court the same day will be investigated to hopefully improve processing of cases and standardise the fines and costs issued.
- 1.7.4.5 The impact on legal services will be closely monitored to ensure adequate resources are available and to prevent detrimental impact on the legal service team.
- 1.7.5 Community Safety
- 1.7.5.1 The increased uniformed presence will support the Public Reassurance measure of tackling anti-social behaviour in Maidstone. Close working with the Police will also be essential.
- 1.7.6 Procurement
- 1.7.7 The trial will be reviewed after 3 months and if the trial is deemed successful, procurement will be approached to undertake a further tender exercise.
- 1.7.8 In order to ensure the progress is carried out in accordance with the Council's procurement regulations, the Cabinet Member and Director of Resources and Partnership have agreed a waiver from the Kent Priorities purchasing guide to enable the six-month trial to proceed.
- 1.8 **Relevant Documents**
- 1.8.1 Appendices  
Appendix 1: Enforcement Policy for Environmental Enforcement.
- 1.8.1 Background Documents  
None

**IS THIS A KEY DECISION REPORT?**

Yes

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No

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If yes, when did it first appear in the Forward Plan?

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This is a Key Decision because: .....

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Wards/Parishes affected: .....

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**How to Comment**

Should you have any comments on the issue that is being considered please contact either the relevant Officer or the Member of the Executive who will be taking the decision.

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