



ADUR & WORTHING
COUNCILS

Joint Strategic Committee
1 December 2020
Agenda Item 17

Key Decision [No]

Ward(s) Affected: All

Litter Enforcement - East Hampshire District Council

Report by the Head of Environmental Services

Executive Summary

To seek approval from the Committee regarding a proposed litter and dog fouling enforcement scheme operated on behalf of Adur and Worthing Councils (AWC) by East Hampshire District Council (EHDC). To seek approval to delegate these functions to East Hampshire District Council on an initial 12 month basis, likely to be extended by the Head of Environmental Services pending the success of the partnership in the initial 12 month period.

1. Purpose

- 1.1. To extend the Adur and Worthing Councils litter and dog fouling enforcement authorisations under a deed of delegation to East Hampshire District Council Officers working under EH Commercial Services Ltd.

2. Recommendations

- 2.1. Delegate authority to the Head of Environmental Services to enter a contractual arrangement with EHDC for the provision of delegated enforcement services for littering and dog fouling for an initial 12 month period. The contract must include EHDC's enforcement of littering and dog fouling within Adur and Worthing under a single

deed of delegation, but separate administration of the scheme for the District and Borough to include service of Fixed Penalty Notices (FPNs), recovery of charges, management of bad debtors, and management of court hearings associated with non-payment.

- 2.2. Delegate authority to the Head of Environmental Services to make contractual alterations regarding areas covered, number of patrols per week etc to ensure the service is fit for purpose at all times during the contracted period.
- 2.3. Note that the expenditure of £5,900 in order to set up AWCs on EHDC's back office administration system will be funded from the Councils' VAT contingency budget.
- 2.4. Head of Environmental Services to report back to JSC 12 months into the scheme to ascertain success, and therefore future direction of the contract

3. Context

- 3.1. The service provided to AWC will relate to enforcement of littering and dog fouling offences via Fixed Penalty Notices (FPNs). Two EHDC officers with delegated enforcement authorization will patrol Adur one day per week, and Worthing one day per week.
- 3.2. The service provided by EHDC also includes the administration of all tickets, managing representations, the investigation of complaints, body worn camera viewings, the preparation of court packs for the litigation process for the single justice procedure, and attendance and representation at court.

BACKGROUND:

- 3.3. AWC currently employ two full-time equivalents (FTE) who are tasked with a wide range of environmental management enforcement tasks. Their primary role has been to pursue fly-tipping offences and abandoned vehicles. Whilst littering had been part of the substantive role there has been minimal enforcement of littering offences. Similarly, AWC employ two dog wardens authorised to serve dog fouling enforcement notices, and numbers of FPNs served are likewise relatively low. Historically, the importance of litter and dog fouling

enforcement patrols has often been lower priority than that of other tasks, and the back-office administration has not been in place to manage the associated bureaucracy efficiently.

- 3.4. Officers appreciate that there is a strong political desire to manage this enforcement more closely, and collaboration with EHDC presents an opportunity, through a shared economy of scale, to procure a cost-neutral enforcement service to help drive improvements in our neighbourhoods.
- 3.5. EHDC has entered into similar enforcement agreements with 9 other local authorities including the provision of legal services in processing court packs and attending court for non-contested matters. Trials would be excluded from the agreement.
- 3.6. Currently 8 of EHDC's 9 partnership councils are receiving a cost neutral service. The one operating at a loss asked EHDC to engage in non-ticketed, educational days throughout their programme therefore resulting in a £2k cost of the service.
- 3.7. The average payment rate for the FPN's served by EHDC is approximately 80%, and EHDC officers usually issue an average of 6.1 tickets per day.

THE PROPOSAL:

- 3.8. EHDC propose to run their enforcement model for AWC via EH Commercial Services Ltd, incorporated in Feb 2016. EH Commercial Services Ltd are well respected in the fields, and were shortlisted for an award in the Public/Public Service category at the 2020 LGC Awards and were recognised as the lead for best practice for Single Justice Procedure.
- 3.9. Enforcement activity will focus on areas of high footfall such as town centres, parks, and residential streets identified as problematic. EHDC will patrol hotspots that are identified to them using the local knowledge and intelligence gathered from AWC officers and elected members.
- 3.10. EHDC currently employs 10 officers that work in regions as part of this service. They work in pairs for health and safety and they alternate areas to remove the risk that officers are accused of targeting areas or individuals.

- 3.11. Costs equal £500 per day (two officers) plus the additional cost of mileage.
- 3.12. In terms of cost recovery, AWC would receive full reimbursement for the first four notices served (£75 each for littering, £100 each for dog fouling) for each day worked, thereafter any FPNs served on those days over and above the initial four would be charged at £25 per correctly issued FPN to AWC - with the remaining £40 or £75 being retained by AWC. NOTE - £75 is the current rate for littering FPNs for AWC, and £100 is the current FPN rate for dog fouling offences.
- 3.13. An average of 6 tickets per officer per day would be expected, as is the norm, but AHDC officers do not have set targets; they do not go looking for trouble.
- 3.14. The delegated authority would be for an initial 12 month period. Contract changes would require three month's notice and can be made by way of email confirmation from the Head of Environmental Services.

4. Issues for consideration

- 4.1. AWC have previously explored the use of a private enforcement company not affiliated with another local authority. Private enforcement companies do not always share public sector values and can pose a reputational risk, and as such this option was not explored further.
- 4.2. AWC could employ additional FTE to be dedicated to littering and dog fouling enforcement. This, without the associated benefit of the efficiency of scale that EHDC benefits from, would be significantly more costly for us to operate.
- 4.3. AWC could consider an interim educational stance, i.e. the enforcement officer requests that the individual concerned pick up either the litter or the dog faeces, and, if they refused, they would be issued an FPN. It is evident that those involved in this behaviour are aware it is an offence to litter/allow their dog to foul without picking it up. If an opportunity is given to pick up the litter/dog faeces before issuing an FPN, this becomes more of an educational rather than enforcement role. In this instance AWC could not expect to benefit from a cost neutral service. A zero-tolerance approach is therefore preferred for adoption.

- 4.4. Other authorities operate a reduction in FPN fine level when paid within a short timescale i.e £75 fine reduced to £50 if paid within 14 days. EHDC's analysis on time sensitive reductions in fine to incentivise payment show that this method does not increase the percentage of successful payments overall, but it does increase the speed at which payment is made. We suggest that it would be recommended that we set fine levels at £75 for littering and £100 for dog fouling with no reductions related to the speed of payment as the payment percentage rate will be maintained at approx 80% regardless (it has been seen to be as high as 88% in some areas).

5. Engagement and Communication

- 5.1. A version of this report was submitted to Worthing and Adur Informal cabinets. Internal stakeholders have been consulted.
- 5.2. Should there be agreement to delegate authority to EHDC there will be a communications programme to inform the wider public of the scheme via twitter, instagram, and the Councils' website.

6. Financial Implications

- 6.1. Officers have explored the market for provision of these services. Private companies do offer this service, however Officers are aware of negative media coverage of these schemes and therefore the potential for reputational damage.
- 6.2. This recommended route to procure would be a transfer of responsibility under a single deed of delegation covering both Councils, and would therefore not require a full procurement exercise.
- 6.3. Several charge models were submitted by EHDC for each Council, showing the relationship between notices served vs cost recovery. Scenario 1 - £75 litter, and £100 dog fouling fines, without time sensitive reduction, is the preferred model, and will return a cost neutral solution should EHDC staff serve 6 notices each per day.
- 6.4. In order to set up AWC on EHDC's back office an upfront cost of £5,900 is required which will be funded from the Council's VAT contingency budget.

7. Legal Implications

- 7.1. The arrangement will be applied under the terms of Section 101 of the Local Government Act 1972 and section 9AE Local Government act 2000 together with regulation 5 of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2012. These respective Acts and Regulations allow a Local Authority to arrange for the discharge of certain functions to another Local Authority. The mechanism used here would be a single deed of delegation covering both Adur District and Worthing Borough Council.

8. Conclusions

- 8.1. The effective resourcing of this particular function has been proven successful elsewhere when using the services of East Hampshire District Council. A dedicated team of skilled officers have served a significant number of Fixed Penalty Notices elsewhere, contributing to the enhanced cleanliness of their respective town centres.

Officer Contact Details:-

Ben Milligan

Head of Environmental Services

ben.milligan@adur-worthing.gov.uk

Sustainability & Risk Assessment

There are no significant risks associated with this report. There is a small risk that this service cannot be maintained as cost-neutral, however, costs would likely be minimal (£2k max or below), and the flexibility within the contract would allow AWC to tailor the agreement to our needs within the life of the agreement.

1. Economic

There is a small risk that this service cannot be maintained as cost-neutral, however, costs would likely be minimal (£2k max or below)

2. Social

2.1 Social Value

This proposal will help spread a positive message within the community that our open spaces, high streets and parks will be respected and looked after.

2.2 Equality Issues

None perceived

2.3 Community Safety Issues (Section 17)

Not applicable

2.4 Human Rights Issues

Not applicable

3. Environmental

This proposal will help us safeguard our open spaces, town centres, foreshore etc.

4. Governance

Not applicable