

Committee:

Date: October 2018

Wards: ALL

Subject: The work of the Environmental Enforcement Team

Lead officer: Pat Dejesus Communication and Enforcement Manager

Lead member: Councillor Mike Brunt, Cabinet Member for Environment and Street Cleanliness

Contact officer: Pat Dejesus

Recommendations:

1 Purpose of report and executive summary

- 1.1. This report aims to provide the panel with an update on the work undertaken by our Environmental Enforcement Service and the partnership working arrangement's with Kingdom Security and the councils Neighbourhood Client Officers
- 1.2. The report outlines the efforts that are being taken to prevent and investigate fly tips; the likely cause of the increase of abandoned vehicles, along with how the team deals with abandoned vehicle processes.
- 1.3. Litter is now the number one concern of our residents; we have invested in anti-litter campaigns over a number of years and invested in litter bins with ash trays and many gum and butt bins across our town centres. We are hopeful that through on-going provision of suitable bins, continued education and enforcement, the number of FPNs issued will reduce. Our intention is to prevent litter in the first place and satisfy the demands of our residents.

2 DETAILS

- 2.1 The Environmental Enforcement Team comprises of four enforcement officer lead by the Community Engagement and Enforcement Manager.
- 2.2 The primary function of the Enforcement team is to achieve regulatory compliance in order to protect the public, legitimate business, and the environment. However, we reserve the right to take enforcement action in some cases after compliance has been achieved if it is in the public interest to do so.
- 2.3 We recognise that prevention is better than cure, but where it becomes necessary to take formal enforcement action against a business, or member of the public, we will do so. There are a wide range of tools available to us, the actions we may take include: The use of legislation such as Environment Protection Act 1990, Anti-Social behaviour Act 2014 and Clean Neighbourhood Act, 2005. The team can use powers to enforce against, litter, Fly tipping, duty of care (waste control for businesses) we have adopted the following process in relation to our work. (Please see attached spreadsheet showing recent stats).
- 2.4 It is important to note that a FPN is an invitation to effectively discharge liability to prosecution. This means that while this is not an admission of guilt, you

agree that an offence has been committed and that by paying the sum of money specified no further action will be undertaken by the council. This method of dealing with offences not only saves the time involved in prosecuting cases at court, but the cost associated with a Fixed Penalty Notice is likely to be substantially lower than any fine that can be imposed by the courts.

- (a) No action
- (b) Informal action and advice
- (c) Fixed Penalty Notices
- (d) Seizure of vehicles (linked with fly tipping)
- (e) Prosecution

The Enforcement Team carry out covert camera operations where we have had a reasonable amount of waste being fly tipped and where we have exhausted other options to deter fly tips from happening. Covert cameras are normally used where we have evidence of vehicles being involved in fly tipping waste as it's from the vehicle registration details that we are able to trace the culprit.

All captures are recorded and an interview is conducted where the offending person can give their account of their actions. Pending this enquiry most cases are passed to our legal team. We will go for prosecution or we may issue a fixed penalty notice of £400 normally this is for smaller fly tips.

- 2.1. Partnership Working (Kingdom Security)
- 2.2. Kingdom Security work alongside the in-house Enforcement Team, Kingdom issue fix penalty notices to people who deposit litter onto our public highway.
- 2.3. The Kingdom Security Supervisor reports direct to the Community Engagement and Waste Enforcement Manager. Officers are tasked to cover all town centres and known hot spot areas where litter is a problem.
- 2.4. Kingdom has issued a number of Fixed Penalty tickets, and non-payment of a ticket is followed up by case paper work being collated to present to our legal team for prosecution. A fixed penalty notice is £80, and for non-payment via the court process can lead to a fine of up to £2,500. In most recent prosecution cases a fine of £220 is being imposed in the magistrates court.
- 2.5. Kingdom has been working alongside Merton's Police Teams issuing fixed penalty notices to people street drinking. A number of tickets have been issued, along with warning and information about street drinking in Merton.
- 2.6. As well as issuing tickets the team are proactive in engaging with people regarding the consequence of throwing litter

The Community Engagement Officer is responsible for raising awareness of litter and fly-tipping issues.

There are a number of ways in which we address these issues.

- a) Arranging for leaflets/letters to be sent to an individual address, or to more than one resident re any presentation of waste concerns.

- b) Place signage re fly tipping and littering

c) Handing out Stubbi Pouches which are small disposable ash trays which can be used on a number of occasions.

d) Arranging and supporting community clean ups.

e) Facilitating litter awareness in all our primary schools and addressing litter issues with a theatre production show called “Your Choice” and “Joey V Vandal Graff” (dealing with graffiti issues with pupils).

f) As a last resort where suitable and with RIPA authority we may undertake covert operations (Hidden Camera). Such operations are normally progressed over a few weeks, capturing information off vehicles pulling up and fly- tipping waste. All evidence is viewed with the intent to bring culprits in for an interview following data collected on the owner/registered keeper of the vehicle. Depending on the circumstances and volume of waste involved we can deal with the case by either a £400 fixed penalty notice or by preparing a case for prosecution.

We also receive information from residents who witness fly tipping, and for those that are happy to provide a witness statement we will investigate. Unfortunately where waste has been fly tipped on private land it is the land owner that will be responsible for removing and disposing of the waste.

Enforcement Officers work along with the Metropolitan Police where ANPR's (Automated Number Plate Recognition) exercises take place. This involves a planned event where vehicles are stopped by the Police where there is a strong possibility that the vehicle is carrying or has carried waste. The main aim is to check driver details to see if he/she has a waste carrier licence. Failing to do so and the failing to provide information on where waste is being taken for disposal can lead to a fixed penalty notice being issued for £300.

2.9 Merton's in-house Enforcement team, work in partnership with the Neighbourhood Client Officers. All officers liaise with each other regarding any operational concerns with our waste contractor which may affect the team's ability to enforce. This could be to do with fly tips, litter issues along with on-going issues of waste being presented.

Abandoned Vehicles

2.10 The in-house Enforcement Team are responsible for dealing with complaints of alleged abandoned vehicles on Council highway or Council owned land. We do take requests from private land owners there is a charge for this service to deal with an abandoned vehicle on their land. This includes social housing private land lords etc. Since April 2018 to date the team have dealt with 251 reports of abandoned vehicles each vehicle being inspected and dealt with accordingly.

2.11 The process for dealing with an abandoned vehicle is assessed by the Enforcement officer and depending on its condition we can process the vehicle in a number of ways.

- a) No action, taken as it's not deemed abandoned because it has current Tax, MOT and is secure.
- b) An instant removal notice is applied as the vehicle is considered dangerous and could be a potential car fire due to either/or doors unlocked, smashed windows and left in a dangerous way. We will often remove these vehicles straight away unless it's known that it's been involved in an incident which the Police are dealing with.
- c) 7 Day notice is issued requesting the vehicle be removed, failing to do so will result in the vehicle being removed by the councils abandoned vehicle contractor.
- d) 15 day notice is issued for vehicles on private land, where permission from the land owner has requested our assistance. We do charge for our services. The charge is to investigate and to remove the vehicle if the owner fails to do so.
- e) All vehicles are checked on a HPI system (Hirer Purchase Investigation) to see if they have been reported stolen as this can be often the case. We also check to see if the vehicle is under finance as they may have a valid interest in the vehicle.
- f) We do operate a FREE surrendered vehicle scheme where all residents living in the borough can request their no longer required vehicle to be collected by our contractor. We have seen an increase in abandoned vehicles, nationally; each year over 2 million vehicles reach the end of their useful life. Whilst the majority of these vehicles are disposed of in a legal manner at authorised facilities a minority are abandoned on our streets or in public spaces. During the last 10 years there has been a dramatic increase in vehicle abandonment. The reasons behind this are numerous but include, more complex and costly vehicle maintenance, tighter MOT standards including emissions testing causing a higher failure rate and periodic falls in the price of scrap metal often resulting in vehicle breakers or scrap metal operators charging to take unwanted vehicles away.

3 ALTERNATIVE OPTIONS

This report provides information concerning the Council's enforcement service, the powers available to it and the actions it takes to address issues of concern, therefore there are no decisions required or recommended as part of this report

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. No specific consultation has contributed to the complication of this report.

5 TIMETABLE

None for the purposes of this report

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

In 2018/19 the annual budget for the enforcement team was £305k. As part of the services medium to long term savings this cost will be reduced by £200k. This will be delivered by an increase in the level of FPN issued by the team ensuring that the enforcement team is cost neutral.

Kingdom Security. The business model has been designed to be effectively cost neutral for the council. The model works on the basis that the full operation cost of the service is covered by the contractor. All money received from the issuing of FPN is collected on our behalf by the contractor and transferred to the council, however within the model Kingdom Security are paid a fix percentage for the issuing of FPN.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The Environmental Protection Act 1990 provides the Council with the power to take enforcement action regarding fly-tipping and littering. Fly tipping is the illegal dumping of liquid or solid waste on land or in water. The waste is usually dumped to avoid disposal costs. There is no comprehensive definition of litter and it included cigarette ends and chewing gum. It will also include small miscellaneous items of waste that does not constitute fly-tipping. There is no clear distinction between fly-tipping and littering and each case will be judged on its own merits and appropriate enforcement action can then be taken.
- 7.2. Enforcement options include the power to offer fixed penalty notices an alternative to prosecution, or to prosecute for offences under the Environmental Protection Act 1990. The matters set out in this report are in accordance with the statutory provisions that apply.
- 7.3. The council has a duty under the provisions of the Refuse Disposal Amenity Act 1978 to remove abandoned motor vehicles from any land in the open air or on any other land forming part of the highway. Where removal is made the Council is entitled to recover from any person who is responsible charges for the removal, storage and disposal of vehicles.
- 7.4. The enforcement options set out in this report are in accordance with the statutory provisions that apply.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. There are no specific human rights, equalities or community cohesion implications arising from this report.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1 There are no crime and disorder implications arising specifically from this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1 There are no specific risk management or health and safety implications arising from this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Spread sheet of stats for Fixed Penalties issued from 1st April 2018

12 BACKGROUND PAPERS

None for the purposes of this report