

Report to: Effectiveness of Council Enforcement Activity Working Group

Report of: Head of Highways & Public Protection

Date: 1st July 2021

Subject: Enforcement of Littering and Fly-tipping

Purpose of the Report

1. At its meeting on 15th April 2021 the Working Group met with representatives from NSL, the Council's contractor for the provision of Parking and Environmental (Littering and Dog Control) Enforcement. A range of issues were discussed with those representatives and with Council officers in attendance.
2. Amongst other things, the Working Group resolved that the Head of Highways and Public Protection be requested to:
 - (a) identify options for consideration of Members to address the scale and visibility of enforcement resources and the need to focus on environmental issues such as littering and fly-tipping; and
 - (b) investigate best practice in other local authorities as to how they operated their civil enforcement contracts including alternative approaches whereby the contractor was only paid based on performance and outcome.
3. This report provides an update on the above.

Background and Current Resources

Litter

4. In 2014 a twelve-month pilot took place to explore the use of additional littering and dog fouling enforcement capability. This contract was undertaken by NSL limited with operational deployment commencing in June 2014. A pair of Officers patrolled daily to varied deployment plans over this period seeking to identify and issue Fixed penalty Notices (FPN's) to offenders and provide a visible presence to act as a deterrent.
5. This pilot was awarded on a cost neutral basis with a percentage of both the income received by the Council from FPN's issued and court costs being paid to the Contractor.

6. There is no doubt that the approach adopted raised the profile and consequences of litter and dog fouling in the Borough. It resulted in a significant number of FPN's issued in areas of high footfall.
7. The contract proved cost neutral to the Council, however, financially NSL Limited found the payment model to be challenging in terms of achieving a 'break even' position. NSL Limited indicated that they would not wish to carry on beyond the end of the pilot scheme under that model.
8. There was however a desire from Members for the continuation of additional litter & dog fouling enforcement services and a suitable interim arrangement was established pending procurement of a longer-term solution. This involved an interim supplementary payment to the contractor per month.
9. the existing Parking services contract also operated by NSL Limited was varied in 2016 to include enforcement services in respect of littering and dog fouling, in addition to the existing parking services enforcement provision. The enforcement roles remained separate during this period although it became increasingly clear that there was significant commonality in the roles and patrol areas. The contract was based on payment of an hourly rate to patrol.
10. In 2017 a trial took place whereby several existing 'civil' enforcement officers undertook a dual role of enforcement, issuing both Penalty Charge Notices for parking offences and Fixed Penalty Notices for environmental offences. This proved a success and at the subsequent re-procurement of the Parking & Environmental Enforcement contract this innovative model was adopted to ensure that all 'civil' enforcement officers undertook this dual role and thereby increasing the daily number of officer patrolling for litter and dog fouling offences from two in 2014 to on average of thirteen per day. It was also at this time Sefton's Public Spaces Protection Order – Dog Control was introduced, and the scope of enforcement was widened further to include other dog control offences and not just dog fouling.
11. When introduced this dual role approach was believed to be a first of its kind for a local authority and continues to be the basis of the current Parking and Environmental Enforcement Services contract.
12. It should also be noted that the combined impact of reducing hours in the Contract, as part of agreed budget savings, and changing the distribution of hours to include more environmental enforcement did result in a loss of parking and PCN income. This has been partly offset by increased FPN income but is something the Council would need to consider if any further reductions or redistribution of activity were to be considered.

13. The “back office” processing of Fixed Penalty Notices is undertaken by a member of the Council’s Parking Services Team. Whilst initially, this was intended to be just a small part of their duties, it has grown to take up a significant amount of their time. A new back office system that will come into use in October 2021 should streamline this.

Fly tipping

14. Over the years there have been many positive initiatives designed to tackle the ongoing issue of fly tipping. During the period 2005–2012 these were predominantly funded externally, such as with Neighbourhood Renewal and Working Neighbourhoods funding. Due to the funding criteria, their focus was on the most deprived Wards in the South of the Borough and Dukes and Cambridge Wards in Southport.
15. The level of resources varied over this period but over time included seven Waste Enforcement Officers, a Vacant Property Officer, two Environmental Hits Squads and a Community Engagement Team. In 2012, when the funding and these projects ceased, the teams consisted of a Community Engagement Team Leader, Campaigns Co-ordinator, 3 Community Engagement Officers, 6 Waste Enforcement Officers and a Pest Management Team (Pest Control Officer & Hit Squad).
16. Four Environmental Enforcement Officers were initially retained when this funding ending, but the other posts were all lost. In 2017, in response to further cuts in government funding, the Council agreed a substantial budget saving in the Environmental Protection service budget savings and this team was further reduced from four to two officers.
17. The two remaining officers cover the whole of the Borough investigating:
- Fly-tipping complaints;
 - Duty of Care issues with businesses; and
 - Enforcement of overhanging trees obstructing the highway.

During the growing season this latter role places a significant strain on this enforcement resource. Reduction in the enforcement team has also coincided with the need for Cleansing services to make substantial budget savings.

18. In 2019 the Public Protection Service was able to take on a regulatory & Compliance apprentice who has predominantly trained within the Environmental Enforcement Officers

19. Recognising Members' concerns regarding the level of resource to deal with fly tipping issues, the service has very recently been able to re-designate a vacant post to provide an additional Environmental Enforcement Officer. Following a redeployment process in June 2021 the Regulatory & Compliance apprentice was successfully appointed to this new post, thereby increasing the capacity within the team from two to three officers. It is hoped that a further apprentice will be recruited in 2021.

Deployment of Parking, Litter & Dog Control Enforcement Resources

NSL Enforcement Officers Deployment Principles & Priorities

20. Officers undertake a dual enforcement role which includes identifying both:
- Parking Offences (yellow line restrictions, schools, bus stops, residents parking areas, Pay and Display and limited waiting restrictions, etc); and
 - Environmental Offences (litter, dog fouling and dog control).
21. Officers offer a visual deterrent to prevent offences occurring; issue Fixed Penalty and Parking Control Notices where offences are observed and act as an ambassador for Sefton in appropriate circumstances.
22. The type of offences observed, and time spent focusing on each will be determined by the location that is being patrolled.
23. Routine foot patrols are focused to locations likely to have maximum impact with the resources available. This will include areas of high footfall where a combination of offences may be observed for example litter and parking within Bootle and Southport Town Centres. Additionally, patrol routes will cover adjacent areas where potentially different offences may occur e.g. officer undertaking a school visit to deal with parking issues in the morning will then move onto a nearby green space or commercial area to focus on other priorities once the children have gone into school.
24. Officers are deployed on a mixture of patrols across the Borough averaging approximately 3160 hours per month. This represents a reduction of 30% on the previous contract. The average split of deployed hours across the borough is approximately 55% North / 45 % South. Areas not covered by routine foot patrol are monitored through mobile patrols which can respond rapidly to an urgent matter or undertake planned activities. On average 13 officers are deployed per shift Monday to Saturday and 11 on Sundays/Bank Holidays.
25. Parking and Environmental offences are given equal weighting however several factors influence the deployment priorities, these include:
- Level of potential offences to be observed or complaints within a location

- Potential pattern of offending or key times when offences are likely to occur
- Severity / urgency of the issue and required response
- Specific events e.g. Southport Air show
- Seasonal variations, which can place significant additional demands on the service for enforcement on the coast. Key locations with high number of visits from residents and visitors to the Borough

26. Sefton Council provide relevant data, where available, e.g. dog fouling complaints which will be used to influence the pattern of officer deployment.

Current Deployment

27. The Deployment of officers in 2020/21 has been significantly affected by the Covid Pandemic with enforcement suspended for a period during the year. The response has also needed to be prioritised to meet changing demands such as the large increase in visitors to coastal locations such as Formby and Ainsdale.

28. In a typical year however, Officers are deployed from two bases, Bootle and Southport in a mixture of on-foot beats and mobile response. Shift patterns vary to reflect the day of the week, Bank Holidays, special events and seasons.

29. The attached Deployment Plan reflects a similar approach that was taken prior to the Covid Pandemic and shows the anticipated deployment during 2021 subject to the removal of Covid restrictions on the 19th July 2021. This plan is subject to ongoing review and allows for a reactive response to specific issues.



Deployment Plan -
2021.pdf

30. Litter patrols focus on areas of high footfall, to have maximum impact, and often coincide with locations where parking enforcement is necessary. This is reflected in the volume of FPN's issued. Patrols also take place throughout the borough where littering concerns are raised or observed. These patrols ensure a visibility and a deterrent but due to their locations this does not always reflect in the same level of FPN's being issued. Anecdotal evidence from officers does confirm that a change in behaviours occurs when there is a visible presence. The impact of these patrols is however less measurable without some form of consistent local environmental quality indicators or observations.

Prioritisation and Deployment of Fly-Tipping Enforcement Resources

31. As stated above, since 2017, the Council has had two Environmental Enforcement Officers covering the duties listed in paragraph 15. As also stated above this has recently been increased to 3 officers but due to the ongoing small size of the Environmental Enforcement team it continues to be necessary to prioritise responses and investigations relating to fly tipping.

The scale and nature of the materials deposited vary significantly from large amounts of putrescible matter to small scale inert materials and increased awareness of personal data security and deliberate acts to avoid detection mean that evidence of the offender is not always available.

33. Prioritisation of the services response to complaints has been based upon the nature and scale of the incident and the likelihood of identifying the offenders as follows:

- Investigation of large-scale incidents where realistic prospect of identifying and prosecuting the offender. (Supported by good evidence, witnesses prepared to give statement).
- Incident investigated where hazardous/ putrescible matter having potential significant impact upon local community / rodent activity.
- Smaller scale incidents e.g. 1-10 bin bags prioritised in line with the prospect of identifying the offender or achieving behavioural change at the location or first line enforcement identifies offenders.
- Loss of control of business waste or incorrect disposal arrangements investigated primarily on complaint only.
- Investigations involving inert materials such as builders waste, tyres, garden waste mattresses etc. are given lower priority if information leads us to believe there is no real prospect of obtaining evidence to proceed further.
- Residents & businesses made aware of their responsibility via letter & web-based information.

Options to Address the Scale and Visibility of Enforcement Resources

34. There are several options that Members might wish to consider, to increase the scale and visibility of enforcement resources. The options chosen are likely to depend on the focus for attention (e.g. Litter or Fly-Tipping), the nature of impact required and available budget. There is currently no identified additional budgetary provision for increasing the scale of enforcement resources.

35. Members may also wish to consider that enforcement often works most effectively when combined with Education/Engagement (to increase awareness of issues, expected behaviour and consequences of non-compliance) and Engineering (things that make it easier to comply and harder to breach a requirement or to justify/excuse breaches) measures.

36. Options include considering:

- (a) Increasing the in-house resource for Environmental Enforcement;
- (b) Increasing the Parking and Environmental Enforcement contract currently operated by NSL;
- (c) Additional short-term enforcement interventions, either through the existing contractor, another contractor, or directly employed by the Council
- (d) Exploring alternative enforcement models (e.g. zero-cost/self-financing)
- (e) Enhanced education and engagement campaigns
- (f) Further engineering measures

Or a combination of the above. Each of these options are considered further below, but more work remains necessary to clarify objectives, best options and before a firm cost could be confirmed.

Increasing In-House Environmental Enforcement

37. Environmental Enforcement Officers are currently paid at Grade G and therefore, with associated on costs and equipment, the cost of providing one additional full-time officer (1FTE) would be in the region of £37,800–£42,700 per officer.

38. This would provide for 9620 hours, or approximately 8,140 hours after Annual Leave, Bank Holidays and unpaid leave over the Xmas Shutdown.

39. Advantages of this option include that gives a longer-term resource, available all year, better able to build an understanding of the Borough, to build relationships with other organisation and better enables the more complex fly-tipping investigations to be effectively progressed.

40. The disadvantage is that it is less visible and potentially provides less short-term impact.

Increasing the Parking and Environmental Enforcement Contract with NSL

41. Advantages of this approach include that gives a longer-term resource, available all year, better able to build an understanding of the Borough, to build relationships with other organisation, the relationship with NSL is well established, uniformed CEOs are visible, and the approach to deployment is understood, flexible and not solely determined by the likelihood of raising income from Fixed Penalties. Additional resource could also be targeted towards Member's priority areas (e.g. issue, geography, time of the week).

42. Disadvantages include that it possibly provides less short-term impact, the contract does not currently include fly-tipping, and a significant increase in interventions beyond Fixed Penalty Notices (i.e. prosecutions) would place a significant burden on the Council's back-office resource that would also need to be addressed.

Additional Short-Term Enforcement Interventions

43. Consideration has been given to undertaking a shorter-term project / pilot in addition to the current enforcement by the Council and NSL. This might be provided by NSL or another Contractor. Introducing another Contractor for Litter offences might be contractually (considering the Council's existing contract with NSL) and procedurally problematic, as well as confusing for residents. A separate contract enforcing fly-tipping, perhaps targeted at rear entries and similar areas, raising awareness, issuing advice, speaking to residents "on the doorstep" and issuing of FPN's to offenders, would likely be easier to explain and manage.

44. The advantages could include greater visibility and impact through deploying a larger number of officers for concentrated periods, particularly if deployed in conjunction with targeted educational or engineering interventions (e.g. roll-out of Communal Bins). Disadvantages include inconsistent levels of resource and activity over a longer period, and a significant short-term burden on the Council's back-office for processing FPNs and any subsequent prosecutions

45. Preliminary discussions have been held with two contractors, by way of soft market testing, NSL and the contractor who is currently providing the Council's Covid Night Time Ambassadors.

46. NSL have provided a proposal for a 3-month pilot of 3 additional full-time enforcement officers to target Litter and Flytipping, with a particular focus on rear entries in South Sefton. This is based on similar fly-tipping enforcement they are undertaking in several London Borough's including Barnet, Wandsworth and very shortly Lewisham. The proposal includes commercially confidential information, but the overall cost would be in the region of £30,000. NSL have highlighted that they are currently finding recruitment to be difficult nationally and that recruitment to short-term contracts might be more difficult.

47. The Covid Night Time Ambassador contractor has indicated a willingness to be involved in a similar project and that costs are likely to be in-line with charges levied for providing the night time ambassadors. Although no detail has at yet been discussed, it is expected that the cost would be competitive with the above option. We have less experience with this contractor but to date the feedback from the Covid night Time Ambassador project has been positive. A costed proposal could be sought if Members were inclined to pursue this as an option.

Exploring Alternative Enforcement Models (e.g. zero-cost/self-financing)

48. Members have previously discussed alternative zero-cost/self-financing enforcement models, whereby the contractor is paid based on the number of FPNs served. Such models have been applied in several other Local Authorities, including Liverpool and Wirral. Initial research indicates that these approaches are certainly highly visible and high profile but are also often controversial and unpopular with some members of the public, and in several cases, this has led to the Council terminating the project/contract.
49. As discussed in paragraphs 4-7, Sefton did pilot a cost neutral approach in 2014 with NSL, with a percentage of both the income received by the Council from FPN's issued and court costs being paid to the Contractor. The contract did prove cost neutral to the Council, but NSL found it difficult to achieve a 'break even' position and indicated that they did not wish to carry on beyond the end of the pilot scheme under that model. Initial research has identified other cases across the UK where the Contractor has withdrawn as they have not been able to make the model pay.
50. These models are reliant upon the contractor issuing high numbers of FPNs in order to cover their costs and make a profit, this leads to them focusing on high footfall areas, with possibly less interest in engagement, education and patrolling areas where FPNs are unlikely to be issued. It has also led to allegations of unscrupulous practice and targeting "easy targets". Whilst the current contract does focus resource in high footfall areas, because the contractor is not reliant upon FPN income, it gives more scope for flexible deployment.
51. In order to provide Members with a fuller picture on this type of model, further research is underway but has not been completed in time for this report.

Enhanced Education and Engagement Campaigns

52. As indicated above and in various studies, enforcement is usually more effective when accompanied by complementary education and engineering measures. As also stated above, the Council has previously had substantial education and engagement resources and initiatives, which have led to demonstrable improvements, but in recent years we have been increasingly reliant upon low-cost methods such as digital campaigns through Social Media channels, which as good as they are, often have limited reach, particularly with less engaged, more difficult to reach groups.
53. Members may therefore want to consider funding for more extensive, targeted and better resourced campaigns. Tested campaign materials are available through organisations such as Keep Britain Tidy, or the Council could look to

produce its own materials and campaigns based on available evidence of effectiveness.

Further Engineering Measures

54. There are several opportunities to link education and enforcement into planned engineering measures, such as the new PSPO - Dog Control; roll-out of Communal Bins and Clear Sacks; and Green Sefton Bininfrastructure Project. Members might seek other engineering initiatives that encourage people to handle their waste more responsibly.