

Southend-on-Sea Borough Council

Agenda
Item No.

26

Report of the Corporate Director for Place

To

Cabinet

On

18th June 2013

Report prepared by:

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Environmental Care

Environmental Enforcement Policy Review

Place Scrutiny Committee

Executive Councillor (Public Protection, Waste & Transport): Councillor Tony Cox

1. Purpose of Report

- 1.1 To revise the Council's Environmental Enforcement Policy to reflect the new Place Department's enforcement responsibilities and functions in relation to the wider public realm.

2. Recommendation

- 2.1 That Members approve the revised Environmental Enforcement Policy.**

3. Background

- 3.1 The previous Environmental Enforcement Policy was introduced and agreed by the Council in September 2008, with further additions on Dog control orders, table and chairs and A- Boards endorsed in July 2009.
- 3.2 An extensive public consultation was pursued during 2008 prior to the introduction of the policy. The outcome demonstrated overwhelming public support for undertaking enforcement action in relation to incidents of local environmental crime.
- 3.3 Since the introduction of the Policy the Council has further reorganised its frontline enforcement services by forming the Environmental Care Team extending the remit to include street scene, highways inspection, elements of planning enforcement and activities associated with the foreshore from the Pier & Foreshore service.
- 3.4 With a new Place Directorate it's imperative the delivery of a consistent and holistic enforcement approach is taken for the wider public realm including its publically accessible open spaces, foreshore areas, town centre and relevant land across the Borough.

- 3.5 The importance of creating a safe and attractive Borough and reducing Environmental crime and anti-social behaviour, is one of the Council's key Corporate Priorities and has consistently been identified by residents as one of the most important issues locally.
- 3.6 The table below details reports from the Council's database for the past year which records all enforcement activity and highlights the number of enforcement activities logged. Enforcement action includes education, warning letters and formal notices. The Council has a very good record in 'persuading' compliance prior to reaching court action which demonstrates good application of the Concordat approach.

Enforcement Related Activities	
Highway Obstruction	77
A-Boards	32
Abandoned Vehicles	270
Dog Control Orders	90
Dumped Rubbish	756
Fly tipping – public land	1778
Fly tipping – private land (alleyways)	278
Littering	21
Private Land – Litter/overgrowth etc	614
Tables and Chairs	2
Flyposting	2
Commercial Waste	249
Fixed penalty Notices issued	85
Total	4169

- 3.7 Enforcement on local environmental crime is a critical area where the Council has continued to focus resources. To continue to support this priority, a further review of Environmental Care Team arrangements has been pursued.
- 3.8 The existing policy has provided the framework for enforcement which has been successfully implemented by the ECO team over recent years. With the creation of the new Place Directorate and review of other public realm policies the remit for enforcement has been extended further.
- 3.9 The ECO team cover a multitude of responsibilities already highlighted within the policy including other aspects from contract performance management waste collection; waste disposal; street cleansing; toilet cleansing & graffiti; fly tipping & untidy sites; commercial business compliance; dog control orders thorough to winter gritting operations. Issuing fixed penalty notices is one sanction available to officers for environmental enforcement breaches but just as important are the informal options of education and advice. These have been very effective in addressing environmental breaches over recent years.
- 3.10 The Parks Team is also active in enforcement and there are a numerous Byelaws which are enforced by Park Wardens who are mobile throughout the town. In accordance with the Environmental Enforcement Policy the emphasis is on education and promoting the positive use of parks and open spaces. This is achieved by patrolling parks talking to and educating visitors. With regards to

littering & dog control the Parks Wardens engage with dog walkers, hand out dog bags and leaflets about Toxicara. Park Wardens will address any byelaw breaches directly, discussing any matters directly with the visitor. In some cases visitors have been required to leave the park.

- 3.11 The revised draft policy has widened the framework for enforcement that the Environmental Care Officers and other duly authorised officers, both within the Council and Partner organisations. This includes some actions previously undertaken by other teams.

The proposed activities include:

- Implementation of enforcement action against persons who cause damage to highway infrastructure (particularly grassed highway verges)
- Introduction of a chargeable 'Permit Scheme' for developers who occupy highway land
- Obtaining photographic evidence of highway land at the pre-planning assessment stage prior to developments commencing
- Highway obstruction enforcement for non-permitted 'goods for sale'
- Enforcing illegal Highway Cross-overs (PVX's)
- Unauthorised 'Skips' on the highway
- Unauthorised 'Scaffolding' on highway land
- Damage to highway infrastructure without an authorised 'Disturbance Permit'
- Noise nuisance – music, car alarms
- Air quality and smoke from bonfires
- Artificial light nuisance
- Extend enforcement to incorporate parks & open space areas

- 3.12 The Clean Neighbourhoods and Environment Act 2005 give all local authorities the ability to issue a FPN to anyone over the age of 10. The Council's duty under the Children Act 2004 requires that we discharge our functions with regard to the need to safeguard and uphold the welfare of children. With this in mind, different procedures will be followed when a young person (10 years old to 17 years old) is caught by an authorised officer committing an offence. All young people committing an offence will be referred to the Youth offending Team (YOT) who can assist with monitoring the behaviour of young people who are causing concern and can advise on activities, interventions and can issue Acceptable Behaviour Agreements or Anti-Social Behaviour Orders.

- 3.13 The revised Environmental Enforcement Policy works in line with Central Government's good practice code for enforcement, the Enforcement Concordat, and was drawn up with reference to guidance issued by the Department for Environment Food and Rural Affairs (DEFRA) for the implementation of the Clean Neighbourhoods and Environment Act (CNEA) 2005. Southend-on-Sea Borough Council has also adopted the Central and Local Government Concordat on Good Enforcement. The Legislative and Regulatory Reform Act 2006 and the Regulators' Compliance Code places a duty on the Council to have regard to the 'Principles of Good Regulation' when exercising specified regulatory functions.

- 3.14 The Council will also produce a 'Highways and Public Rights of Ways Enforcement Protocol' to ensure that it maintains public safety on all highways accessible to the public and to deal effectively with any offence or breach of highway legislation.
- 3.15 The proposed revised policy was considered by Members at the Economic and Environmental Scrutiny Committee on 11th April 2013 as part of Pre-Cabinet Scrutiny. Members at the Scrutiny Committee were broadly supportive of the revised policy but raised a number of areas of interest which they asked to see reflected in the Council's enforcement approach. These are briefly detailed below:
- 3.16 Pre-Cabinet Scrutiny comments raised were considered as follows:
- SEAL added as a partner within the policy
 - Noise nuisance includes music, car alarms and are considered within the scope
 - Photographic evidence in relation to damage to highways infrastructure as part of a development will be implemented by Planning
 - Enforcement of cycling on pavements is a Police responsibility and not within the scope of this Policy. The Council has assisted the Police in issuing 50 FPN's last year on the information that they provided
 - The Head of Planning & Transportation has agreed to consider "naming & shaming" individuals who damage the highway and planting trees or placing bollards where damage has been caused by vehicles mounting footpaths
 - The section on enforcement has been reviewed
 - The questionnaire has been amended to reflect comments made at Pre-Scrutiny and hard copies have also been made available
 - It is not feasible to incorporate detailed enforcement related activity and the duties of PCSO's within the Policy

5. Consultation

- 5.1 An extensive consultation programme was undertaken during 2008 prior to the introduction of the policy.
- 5.2 Although this was previously reported to members on September 2008, it is worth highlighting some of the principal outcomes of the consultation:-
- i.) Over nine in ten (91%) of all respondents supported the overarching aim of the draft policy – 'to improve Southend's local environmental quality by reducing environmental crime across the town'.
 - ii.) There are six key issues that have been given highest priority as identified by residents:
 - Fly tipping (73%)
 - Littering (71%)
 - Irresponsible dog owners/dog fouling (65%)
 - Graffiti (63%)
 - Littering from shops/businesses (50%)
 - Residential rubbish/recycling sacks put on public land (39%)

- iii.) Support for the Environmental Enforcement Policy from the community was strong, although less so for taking enforcement action without education and advice and only when the severity of the situation dictated.
- iv.) Overall, almost all respondents (97%) agreed to an extent that it is important for Southend Borough Council to deal with environmental crime, and this figure rose to 100% of businesses/groups.
- v.) A higher proportion, close to nine in ten (89%) felt that only if educational procedures were unsuccessful should enforcement action begin, such as issuing a Fixed Penalty Notice or seeking Court prosecution.

5.3 It was proposed that the revised draft Policy be placed on the council's website for a period of 4 weeks as a sensible approach for consultation, which has been undertaken and finishes on 7 June 2013. The consultation was framed to seek views on specific aspects of the revised draft policy as a significant proportion of the Policy remains unchanged and has already been subject to an extensive public consultation process.

5.4 The questionnaire is attached as Appendix 2. The consultation is still on-going and due to close on 7 June 2013. Initial feedback is supportive of the approach

Summary of responses so far;

- 90% still consider issues around environmental crime continue to be Important
- 80% responded saying they perceived environmental crime to have increase or stayed the same
- All areas of environmental enforcement were considered important with issues around littering/dog fouling and dumped rubbish ranking highest
- Respondents expressed that environmental crime was important across the public realm of the Council

6. Other Options

6.1 The Council has an existing Environmental Enforcement Strategy which it could continue to implement. However taking the approach would not maximise the potential for operational efficiencies created by the formation of the new Place Department.

7. Reasons for Recommendations

7.1 The revised policy proposed in the report will help ensure that operational efficiencies are maximised and that an improved approach can be taken to the protection of the local environment.

8. Corporate Implications

8.1 Financial Implications

There are no additional budget implications. Environmental Care Team is already funded for and no additional resource is required to undertake the new enforcement functions.

It is proposed to set a fee of £200 for the first month then £50 a week thereafter for a permit for developers who need to occupy part of highway land to undertake their development. This fee will be incorporated into the Council's Fees & Charges Scheme for 2013/14. This is in line with the fees other authorities charge.

8.2 Legal Implications

Processes and procedures need to be explored and agreed by the Legal Team to ensure that they fully support all proposed enforcement action.

8.3 People Implications

None applicable to this report

8.4 Property Implications

There are no property issues.

8.5 Consultation

A four week public consultation has been completed via the council's website to capture any views. The extensive consultation undertaken in 2008 was a robust and a significant proportion of the policy has remained unchanged.

The draft policy was considered by Members of the Economic & Environmental Scrutiny Committee on 11th April 2013 as part of Pre-Cabinet Scrutiny. Members views are incorporated into the report.

8.6 Equalities Impact Assessment

An EIA has been undertaken and highlights the following issues for consideration within the policy;

- Minority groups/individuals receive appropriate advice/guidance should an infringement occur
- Enforcement action is conducted fairly and without prejudice
- Awareness of good local environmental practice is clear and concise to everyone across the borough.
- Communication barriers are addressed to ensure that all groups understand as to what constitutes an offence.
- Undertake enforcement in a reasonable, equitable and proportionate manner.
- We will assist all groups to meet their legal obligations
- We focus on prevention rather than cure;
- Partnership working so the Council benefits from shared knowledge and making efficient use of resources
- Consistent delivery of enforcement action
- Considerate implementation of the policy by any authorised officer
- Targeted awareness raising and education to minority groups prior to

enforcement action

8.7 Risk Assessment
None applicable to this report

8.8 Value for Money
None applicable to this report

9. **Background Papers**

DETE08/102 Report of Corporate Director of ETE Environmental Enforcement Strategy

DETE09/067 Report of Corporate Director of ETE Dog Control Orders and Table & Chairs and Advertising Board Policies

10. **Appendices**

1. Revised Environmental Enforcement Policy
2. Consultation Questionnaire