



## Environment Committee

8<sup>th</sup> November 2016

<b>Title</b>	<b>Streetscene Enforcement Update</b>
<b>Report of</b>	Commissioning Director for Environment
<b>Wards</b>	All
<b>Urgent</b>	No
<b>Status</b>	Public
<b>Enclosures</b>	Appendix A – Streetscene Enforcement Update Report
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### Summary

This report looks to update the Environment Committee on the positive start to the Street Scene Enforcement Trial, and the Keep Barnet Clean campaign. It highlights the current timetable of the project, details what Fixed Penalty Notices have been issued and paid, and feedback from residents.

The report also seek approval to increase the level of the newly enacted Fixed Penalty Notice for fly tipping from the default level of £200 to £400 to deter fly tipping in the borough and align with the recommendation by London Councils.

### Recommendations

1. That the Environment Committee note the Streetscene enforcement update in Appendix 1
2. That the Environment Committee approve increasing the new Fly Tipping FPN to £400 or £300 if paid within 10 days, in line with the recommendation by London Councils

## 1. WHY THIS REPORT IS NEEDED

- 1.1 The Council is taking steps to address the demands of a developing Borough and the impacts on its built and natural environments through developing a number of strategies, frameworks and policies. These include a policy for street scene enforcement to ensure that we are well placed to respond to current challenges, and are prepared to be able to manage these issues in the future.
- 1.2 In March 2016 Environment Committee approved a trial to increase Street Scene based enforcement through a third party supplier. This increased enforcement against street scene crime is aimed at tackling those causing the issues and reduce the burden and impact on law abiding residents and businesses in the borough.
- 1.3 This trial commenced in July 2016. A full update report on the trial's progress, including the communication campaign which has been carried out alongside the report can be found in Appendix A. The update highlights:
  - The successful launch of the Keep Barnet Clean Campaign
  - Areas where direct enforcement has been carried out
  - Breakdown of information on Fixed Penalty Notices (FPNs) including, type issued, hotspot locations
  - Breakdown of FPNs issued by age, sex and ethnicity
  - Payment level and methods
  - Next steps for non-payment

### **Fly Tipping Fixed Penalty Notices**

- 1.4 In May 2016 a new Fixed Penalty Notice for fly tipping was enacted. The new Environment Enforcement Officers have been using this new power. The FPN is, however, currently being issued in Barnet at the default level of £200.
- 1.5 Government has specified that Councils can set their own level of FPN but that penalties must be set no lower than £150 and no higher than £400. The law also specifies that an individual has 14 days to pay an FPN. Boroughs can offer a reduced penalty rate of no less than £120 if the penalty is paid within 10 days. **Boroughs are not required to offer an early payment discount.**
- 1.6 London Councils' Transport & Environment Committee on 16 June 2016 endorsed a pan-London penalty for consistency in tackling Fly tipping. The recommended level was the maximum of £400. It was agreed and individual Boroughs were left to decide if they wanted to offer a discounted early payment option.
- 1.7 For other areas of environmental enforcement such as littering and commercial waste FPNs the council has set an early payment discount between 38% to 40%. A discount can encourage people to pay early and reduce the administration costs for the council and potentially the legal cost for having to prosecute. It also reduces the burden on the Courts. As such the recommendation is to have an early payment discount.
- 1.8 Below is the proposed levels which Barnet could adopt

<b>Fly tipping FPN Level</b>	<b>£400</b>
<b>Early Payment FPN level</b>	<b>£300</b>

## 2. REASONS FOR RECOMMENDATIONS

- 2.1 **Recommendation 1** - It is recommended that Environment Committee note the Streetscene enforcement update in Appendix A, to keep member information on the progress of the trial.
- 2.2 **Recommendation 2** - It is recommended that Environment Committee approves that increasing the new Fly Tipping FPN to £400 or £300 is paid within 10 days, to align with the recommendation by London Councils, and to deter fly tipping in the borough

## 3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The council could continue issue FPNs for fly tipping at £200m however this would not align with other London Councils, and could suggest that tackling of fly tipping in the Borough is not a priority.
- 3.2 The Councils could decide not to adopt an early payment discount

## 4. POST DECISION IMPLEMENTATION

- 4.1 If the Committee is so minded to approve the recommendations the increase in the FPN level for Fly tipping will be implemented by mid November 2016.

## 5. IMPLICATIONS OF DECISION

### 5.1 Corporate Priorities and Performance

- 5.1.1 The Corporate Plan 2015-2020 is based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:
- Of opportunity, where people can further their quality of life
  - Where people are helped to help themselves, recognising that prevention is better than cure
  - Where responsibility is shared, fairly
  - Where services are delivered efficiently to get value for money for the taxpayer
- 5.1.2 The Corporate Plan 2015-2020 includes the following aims:
- We will be a Leader in London for recycling
  - Over 50% of waste collected will be reused, recycled or composted in 2020
- 5.1.3 At this stage in the development of environment enforcement service, there are no implications relating to the Health and Wellbeing Strategy and its stated priorities, or the future health and wellbeing needs of the local population as identified in Barnet's Joint Strategic Needs Assessment.

## **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 The Streetscene enforcement trial is self-funding, with the specialist supplier meeting all enforcement costs, retaining all income, and undertaking all back office functions.
- 5.2.2 There are no property implications at this stage
- 5.2.3 The trial is being carried out to inform the procurement of the service for the long term. The trial is under the OJEU expenditure threshold, although the procurement of the service for the long term will most likely need to be OJEU compliant
- 5.2.4 There are no staffing implications at this stage
- 5.2.5 There are no IT implications at this stage
- 5.2.6 The vision for the Streetscene enforcement service includes those which are clearly linked to sustainability, including encourage recycling aiming to achieve a 50% recycling rate.

## **5.3 Legal and Constitutional References**

- 5.3.1 Local authorities have a number of different statutory powers in relation Streetscene enforcement, these are set out in the Streetscene Delivery Unit Enforcement Policy (link available in Section 6)
- 5.3.2 Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 has created a new section 33ZA in the Environmental Protection Act 1990 which states:
  - (1) Where an authorised officer of an English waste collection authority has reason to believe that a person has committed a waste deposit offence in the area of the authority, the officer may give the person a notice under this section in respect of the offence.
  - (3) A notice under this section is a notice offering the opportunity of discharging any liability to conviction for the offence to which it relates by payment of a fixed penalty.
  - (9) The fixed penalty payable in pursuance of a notice under this section—
    - (a) is an amount not less than £150 and not more than £400, as specified by the English waste collection authority whose authorised officer gave the notice, or
    - (b) if no amount is specified by that authority, is £200.

(10) An English waste collection authority to whom a fixed penalty is payable pursuant to a notice under this section may make provision for treating the fixed penalty as having been paid if a lesser amount of not less than £120 is paid before the end of the period of 10 days following the date of the notice.

5.3.3 The Council's Constitution (Clause 15A, Responsibility for Functions, Annex A) sets out the terms of reference of the Environment Committee. This includes

- commissioning refuse and recycling, waste minimisation and street cleaning,
- approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources Committee.
- approve fees and charges for those areas under the remit of the Committee

5.3.4 This matter is not reserved to Full Council or to the Policy and Resources Committee as the Constitution specifically allocates matters of this type to the Environment Committee.

## 5.4 Risk Management

5.3.1 The management of risk is done on a continual basis and reported as part of the Council Quarterly Performance regime and considered as part of the Performance and Contract Management Committee quarterly monitoring report.

5.3.2 Risks are managed through the project boards and reviewed and revised at its meeting. The current key risk areas are regarding:

Description	Likelihood	Impact	Risk Level	Mitigation	Likelihood	Impact	Risk Level
If residents and businesses do not know about the new enforcement then they may be unhappy about being fined	2	3	6	Ensure that the a communications campaign on the new trial is in place with easy access to relevant information	2	2	4
If the new trial does not improve the Streetscene Then savings will not be made for the MTFP	3	3	9	Ensure clear targeting of hotspot areas, and close monitoring of results, as well as publicity of good results	2	3	6

## 5.5 Equalities and Diversity

5.3.1 The public sector equality duty is set out in s149 of the Equality Act 2010:  
A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.3.2 The relevant protected characteristics are:

- Age;
- Disability;
- Gender reassignment;
- Pregnancy and maternity;
- Race;
- Religion or belief;
- Sex; and
- Sexual orientation.

5.3.3 The Corporate Plan 2015-2020 sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible before final decisions are made.

5.3.4 Payment of fines from Streetscene enforcement may be more difficult for those on lower incomes. Fines would only be issued for those who break the law, and thus are easily avoided. An early payment discount is proposed.

## 5.6 Consultation and Engagement

Non in connection with this report

## 6. BACKGROUND PAPERS

- 6.1 [Environment Committee November 2015 Papers](#) – Environment Committee Commission Plan
- 6.2 [Environment Committee March 2015 Papers](#) – Environment Committee Business Planning
- 6.3 [London Councils May 2016 Fixed Penalty Notices for Fly tipping](#)