

Proposals for additional Environmental Enforcement

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Portfolio: Clean and Safe Environment

Ward(s) Affected: All wards

Purpose of the Report:

To present for decision proposals for delivery of additional Environmental Enforcement capacity further to the allocation of £50k in additional revenue expenditure by Council meeting on 24th February 2021, and an additional allocation of £11k to increase the Water Management Officer post's capacity to full-time as per Scrutiny Committee recommendations on 31st March 2021.

Recommendations:

1. Cabinet to agree to establish:

(a) a permanent post of Environmental Enforcement Officer and to pilot Case Support Officer capacity as a short-term contract, described in Option 2.

(b) an additional 17 hours per week to make the Water Management Officer post full-time as described in Option 3 at a cost of £11k per annum,

1. Summary

- 1.1 The council is committed to our enforcement services protecting the public, community safety and reassurance. A range of steps is being taken to coordinate and strengthen this enforcement.

- 1.2 Council approved the revenue expenditure budget for 2021-22 on 24th February 2021 and resolved to allocate an additional £50k annually for Environmental Enforcement. The detail was to be confirmed in proposals to Cabinet.
- 1.3 Further to Cabinet consideration in April 2021, this report offers that confirmed detail and seeks agreement on how the additional environmental enforcement capacity will be established and focussed in operational delivery. This will help to implement with high impact our existing commitments made in South Norfolk Council's Environmental Strategy to protect and improve our environment. It will also help us to maximise the achievement of specific Delivery Plan commitments.
- 1.4 Faced with many and diverse public viewpoints on environmental priorities, the council has made specific enforcement and environmental strategy commitments. These commitments provide focus for the additional enforcement capacity that has been funded. Separate reports will be brought forward to support wider implementation of the Environmental Strategy.
- 1.5 Scrutiny Committee recommended on 31st March 2021 that the Water Management Officer post become a full-time role. This will provide much needed additional capacity to deliver the role and pursue action, for example working with riparian owners in highest flood-risk settings, to address foreseeable flooding threats. The additional hours for this post would be beyond the existing revenue budget and this decision is time-sensitive to enable recruitment of a Water Management Officer before the Autumn / Winter season which typically poses greatest threats of flooding.

2. Background

- 2.1 The success and impact of our enforcement services is vital to protecting the public, and to community safety and reassurance. Measures are in hand to closely coordinate and maximise the impact of the council's enforcement services taking forward-thinking approaches. These measures involve enhanced tactical coordination, close inter-departmental working, strengthening of enforcement policy, and firm plans of action both to tackle existing offenders and to prevent or minimise future offending.
- 2.2 The council has regulatory powers to tackle environmental offending under a range of legislation including the Environmental Protection Act 1990, Environment Act 1995, Clean Neighbourhoods & Environment Act 2005 and associated regulations as well as using anti-social behaviour powers and tools when appropriate.
- 2.3 Recognising both the need to protect South Norfolk's high-quality environment and public concerns about environmental offending broadly and fly tipping in particular, the council's Environmental Strategy published during 2020-21 contains a range of commitments for improving our local environment. Existing commitments include:
 - a) A zero tolerance approach to Environmental Crime from fly tipping to dog fouling with a combination of fines for offenders and educating the public

- b) Adopting the best new technology and methods to effect behaviour change, design safe and attractive streets, and stop littering and fly tipping before it happens and take rapid action when it does
 - c) Working more closely and sharing intelligence with the Police, National Farmers Union and the Environment Agency to tackle Environmental Crime.
- 2.4 Reflecting community concerns about environmental offending, the council's enforcement responsibilities and Environmental Strategy commitments, our Delivery Plan 2021/22 contains specific commitments to:
 - a) Review and update specific enforcement policies,
 - b) Pilot smarter multi-agency working including intelligence-led approaches,
 - c) Review and refocus the regulation of environmental crime, with a particular focus on fly tipping, and
 - d) Deliver a full programme of regulation and interventions making a measurable difference to the problems facing our communities.
- 2.5 Whilst the council has no enforcement powers over maintenance of riparian watercourses, Scrutiny Committee has recently identified scope for increasing the capacity of the Water Management Officer post where the current post holder is retiring. This offers an opportunity to increase our capacity for local flood risk investigation, advice and liaison work including preventative work. This now forms part of this report's recommendations because flooding-related interventions are closely related to the council's environmental priorities and it is recognised that an early decision will enable recruitment to best support local communities before the next peak flood risk season.

3. Current position/findings

- 3.1 Environmental offences of particular concern to our residents include fly tipping, littering, and failing to clear up dog fouling. Hundreds of incidents are reported, investigated, and cleared up each year in South Norfolk. Fly-tipping is the single most common environmental offence reported locally.
- 3.2 Enforcement decisions and action are taken following investigation wherever there is sufficient evidence to identify the offender beyond reasonable doubt. The council's regulatory powers include powers of entry, investigative measures including detention and seizure, requiring cooperation with officers, statutory notices, fixed penalty notices and the power to prosecute for offences. The additional enforcement capacity will significantly strengthen our capacity to prevent and detect offences, and to identify and deal with the offenders.
- 3.3 Opportunities have been identified to coordinate and add muscle to the councils' various enforcement resources.
- 3.4 A review of environmental enforcement needs has concluded that the measures contained in Appendix 1 will strongly and positively deliver the council's environmental enforcement commitments. As a result, deterrence of fly-tipping should be measurably improved and we will have greater success catching those who persist in environmental offending.

- 3.5 The main focus proposed for the additional resources is to establish a dedicated environmental enforcement officer (at salary band F) working flexible patterns in close partnership with other enforcement agencies:
- a) Leading a high-profile public campaign designed to maximise awareness, prevention, and deterrence so that there can be no excuse for fly-tipping or waste offences
 - b) Maximising the early detection of new incidents, and the speed of investigation and evidence gathering
 - c) Driving early interventions, deliver warnings and enforcement
 - d) Gathering intelligence and profiling potential offenders for special attention
 - e) Implementing enforcement tactics and strategies designed to disrupt and deter serious and repeat offending

A significant increase in numbers of enforcement actions can be expected, and publicity of this will help to deter future offenders.

- 3.6 The second focus proposed for the additional resources is to pilot a Case Support officer role, on a temporary contract, tasked with:
- a) Coordinating and optimising fixed penalty notice and prosecution practices across the council's regulatory services to increase enforcement capacity and impact
 - b) Modernise prosecution practices, drive efficient and rapid prosecutions where appropriate, and help to maximise success rates and minimise legal costs
 - c) Support managers and assistant directors with reviewing and sharpening up enforcement decision-making

The approach of employing a Case Support officer on short contract has been tested elsewhere, releasing enforcement capacity and increasing offender detection rates and numbers of enforcement actions.

4. Proposed action

- 4.1 Based on the current position above, two options have been identified to deliver additional high impact environmental enforcement. An additional option, Option 3, is offered to increase the council's Water Management Officer capacity to tackle flooding threats to local communities.

Option 1: Full-time environmental enforcement officer

- 4.2 Option 1 is to establish a full-time post and employ a highly skilled Environmental Enforcement Officer. Including all on costs, this would amount to £44k leaving £6k to fund investigation support and enforcement case support. This option would maximise the on-duty staff time of the dedicated enforcement officer. On the downside however it would potentially leave insufficient resources to cope with the increase in office-based enforcement case support work (evidence management, file building, case management and wider enforcement support). The risk is that case support work would tie up the enforcement officer inefficiently as a result of successfully detecting and dealing with offenders.

Option 2: Environmental enforcement officer plus case support officer

- 4.3 Option 2 is to establish a part-time post 30 hours per week (£35k including all on costs) leaving the higher balance of funding (£15k) to commit to efficient,

specialist case support work at relatively low cost. The council would still employ a highly skilled Environmental Enforcement Officer, and potentially with no less field work and enforcement contact time. However, the rate of progress in taking formal enforcement through the legal process would be higher, and the sharpening up of the council's enforcement practices and tactics would potentially lead to wider increases in enforcement capacity and case numbers.

Option 3: Water Management Officer additional resourcing

- 4.4 Option 3 is to provide much needed additional capacity to deliver the Water Management Officer post, amounting to 17 hours per week which will make this post full-time. This requires an additional revenue expenditure of £11k which, in order to also implement option 1 or 2 above, will be in addition to the £50k set aside for environmental enforcement. This additional resource will be committed to pursue action to prevent or minimise impacts of local flooding, for example working with riparian owners in highest flood-risk settings, to address foreseeable flooding threats. This decision is time-sensitive to enable recruitment of a Water Management Officer before the Autumn / Winter season which typically poses greatest threats of flooding. This proposal is at this time a South Norfolk Council-only resourcing proposal alongside the environmental enforcement recommendations in this report.

5. Other options

- 5.1 Cabinet could decide to establish the additional environmental enforcement capacity differently, with a broader remit or alternative priorities. The downside of this may be to dilute the capability of the role or create difficulty in attracting and recruiting suitable applicants for a role that is less clear-cut or achievable.
- 5.2 Cabinet could also decide to agree to no or fewer additional hours of resourcing for the Water Management Officer post as proposed in Option 3.
- 5.3 No specific further options have been identified that would be viable and closely align with priority enforcement aspirations, needs expressed in service demand, and the priorities contained in the Environmental Strategy.

6. Issues and risks

- 6.1 Either of the two environmental enforcement resourcing options presented in this report will provide a substantive increase in capacity for responsive, high impact environmental enforcement. A focussed, achievable remit for a dedicated Environmental Enforcement Officer should enable relatively straightforward recruitment of a suitably experienced and highly skilled officer. If alternatively, the decision were taken to widen the role, it would become significantly more difficult to recruit to and deliver successful achievements. The need identified to strengthen enforcement across the council's regulatory services would be favoured by the greater case support capacity contained in Option 2.

- 6.2 The proposed action at Option 3 in paragraph 4.4. which is covered in recommendation 1(b), reflects a Scrutiny Committee recommendation to increase the council's capacity to help residents vulnerable to flooding, and to provide some capacity for preventative working with riparian owners whose maintenance can significantly improve free-flowing drainage and minimise flood risks.
- 6.3 **Resource Implications** –The proposals in recommendation 1(a) and either Option 1 or Option 2 are already costed and within the revenue budget's £50k additional resources for environmental enforcement agreed by Council on 24th February 2021. The proposal in recommendation 1(b) and Option 3 would require an additional revenue expenditure commitment of £11k to make the Water Management Officer post full-time with permanent effect.
- 6.4 **Legal Implications** – The additional enforcement capacity proposed in this report carries conventional regulatory and enforcement implications which are well understood. Successful delivery is likely to increase the requirement for legal support but, depending which option is supported, the resource implications and case administration and case management requirements could be accommodated within the budget available. A strong awareness and deterrence campaign as proposed will help to minimise the need for and costs of enforcement. The Monitoring Officer has been consulted and offers no adverse comments. No need has been identified for specific legal advice. In relation to Option 3, the Water Management Officer post is not responsible for statutory functions and the council has no duty to maintain or enhance this role.
- 6.5 **Equality Implications** – No specific impact has been identified on any individuals/groups on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion/belief, sex, or sexual orientation.
- 6.6 **Environmental Impact** – The proposals contained in this report directly address protection of the environment and are beneficial.
- 6.7 **Crime and Disorder** – The proposals contained in this report directly address crime and disorder and are beneficial.
- 6.8 **Risks** – References to increased enforcement robustness may not be universally supported and may give rise to adverse perceptions for some people in our communities. Our regulatory services and community groups are finding, however, positive community support for enforcement and particularly on the subject to fly tipping. An early decision whether or not to increase the staffing capacity of the Water Management Officer post will enable recruitment, until which time the council has no staffing capability to tackle local flooding impacts, however this is not a statutory requirement and, apart from the sharing of the post's existing hours with Broadland District Council, no other Norfolk district has such a post.

7. Conclusion

- 7.1 Option 2 is the preferred option because it offers a strong additional environmental enforcement capacity together with a substantive case support capacity which will cater for the efficient management of enforcement.
- 7.2 Whilst Option 1 would maximise environmental enforcement field officer time, it would potentially create a significant office-based requirement for case-building time. This would not be a negative factor in itself, however it may be less efficient ultimately than Option 2 as it would not offer the increased scope for also strengthening the council's enforcement across the board. The proposal in Option 2 to pilot a Case Support officer capacity on temporary contract is within the budget available.
- 7.3 Option 3 will deliver on the Scrutiny Committee recommendation in March 2021 and provide a significant enhancement of the council's capability to tackle local flood threats and impacts. This would require funding of £11k beyond the current budget.

8. Recommendations

Recommendations:

8.1 Cabinet to agree to establish:

(a) a permanent post of Environmental Enforcement Officer and to pilot Case Support Officer capacity as a short-term contract, described in Option 2.

(b) an additional 17 hours per week to make the Water Management Officer post full-time as described in Option 3 at a cost of £11k per annum,

Background papers

1. Environmental Strategy as published 2020 on the council's website.
2. Scrutiny Committee draft minutes of the meeting held on 31st March 2021.

Appendix 1

Environmental enforcement proposals

What we do already:

- i. Respond to new reports such as fly-tipping, dog fouling, littering and pollution.
- ii. Examine available evidence including dumped wastes.
- iii. Pursue investigations to identify offenders.
- iv. Challenge, warn and enforce against offenders.
- v. Piloting surveillance cameras to catch offenders in hotspots.
- vi. Developing close working with police on environmental crime and enforcement.

Focus for the additional environmental enforcement post:

- A. Fly tipping (85% plus of the time)
- B. Dog fouling
- C. Littering
- D. Unlawful deposit of wastes causing pollution

What the additional environmental enforcement resources will enable us to do:

1. More capacity possible for intelligence gathering and analysis.
2. Focus special attention on key fly tipping hot spots in consultation with local communities.
3. Respond faster to fly tipping incidents and maximise evidence gathering / offer community strong reassurance.
4. Target hardening in liaison with landlords, landowners, and local communities.
5. More capacity to proactively patrol and detect offending (and deal with locations at high risk of offending before it happens).
6. Run a strong campaign to maximise deterrence of offending and cultivate public 'eyes and ears'.
7. Apply greater capacity further across the full range of investigation measures and enforcement sanctions for wastes offending:
 - a) Residential and business wastes 'duty of care'.
 - b) Fly tipping fixed penalty notices and prosecutions (including section 108 'failure of cooperation' prosecutions).
 - c) Employ a range of disruption tactics to deal with repeat and persistent offenders e.g. stop and search / vehicle seizure.
8. Further make use of ASB tools and powers to tackle wastes offending.
9. Look at wider causes, patterns and ways to:
 - a) Turn people away from fly-tipping.
 - b) Profile offenders and refine our disruption, investigation and enforcement tactics (e.g. unlawful rubbish removers operating for profit).
10. Proactively detect and deal with those suspected of unlawful waste carrying.