

**CITY & COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

ENVIRONMENTAL SCRUTINY COMMITTEE

10 NOVEMBER 2015

LITTER MANAGEMENT & ENFORCEMENT IN CARDIFF

Reason for the Report

1. A report titled 'City Operations – Broadening Enforcement Powers to Improve the Public Realm' is due to be received at the Cabinet meeting on the 12th November 2015. This report provides Members with an opportunity to conduct pre decision scrutiny of the Cabinet report titled 'City Operations – Broadening Enforcement Powers to Improve the Public Realm' and consider the Council's overall approach to litter management and enforcement. The key items for review will include:
 - The current resources and approach for dealing with litter;
 - Education & enforcement; and,
 - Future options being proposed in a November Cabinet paper titled 'City Operations – Broadening Enforcement Powers to Improve the Public Realm'.

Background

2. The Council is faced with the task of managing litter in Cardiff. The majority of this responsibility is applied to public spaces; however, in some instances the Council has to take responsibility for cleaning private land. The main functions of litter management are carried out by the Street Cleansing Service and Waste Education & Enforcement.

Street Cleansing Service

3. The main functions of the Street Cleansing Service is the cleansing of adopted highway areas across the city and removal of fly tipping. The service provides a

number of statutory tasks including street cleansing, public bin emptying and removal of fly-tipping.

4. The service carries out street cleansing for approximately 1088 km of carriageway and 1900 km of footway, it has the responsibility of emptying approximately 1,700 bins on a regular basis and in 2013/14 it dealt with 6,700 fly tipping incidents. The service employs 177 full time equivalent members of staff. For 2015/16 it has a gross budget of £5.53 million and a net budget of £5.02 million.

Waste Education & Enforcement

5. As the title suggests the Waste Education & Enforcement service is responsible for the provision of waste management related education and enforcement activities. The service is tasked with delivering the statutory enforcement activities associated with fly tipping along with a wider range of non statutory tasks which include education in respect of waste presentation and recycling; assessment of assisted lift requests and enforcement of waste-related environmental crime including incorrect waste presentation, littering, abandoned trollies and dog fouling.
6. The service deals with approximately 1,200 requests per month including 400 calls for littering, dog fouling & fly-tipping and 100 assisted lift requests. They also remove 1,000 abandoned trollies each year and in 2014/15 they issued 522 fixed penalty notices.
7. The service employs 18 full time equivalent members of staff. For 2015/16 it has a gross budget of £1.28 million and a net budget of £0.57 million. It should be noted that the 2014/15 gross budget for the service was £2.84 million and that the net budget was £1.87 million; this represents a significant reduction in resources for the Waste Education & Enforcement service.

Main Types of Litter

8. Previous presentations to scrutiny have identified the main types of litter which can be seen in Cardiff as:
 - Sweets and food litter ('on the go litter');

- Dog fouling;
 - Chewing gum;
 - Smoking related litter;
 - Fast food;
 - Split bags, over filled bins;
 - Incorrectly presented bags;
 - Fly tipping.
9. The main sources of litter are frequently generated in or by high footfall areas; discarded from vehicles; takeaways & public houses; schools; areas of transient populations; parks; private land and events.
10. The general approach taken for “Improving Local Environmental Quality” is by using the three E’s, i.e. Education, Engineering and enforcement. Education and awareness is extensively used in Cardiff to reduce littering, for example, the Council has in the past used:
- Targeted campaigns;
 - Preventative measures;
 - Dog fouling bags;
 - Get it out – Students;
 - Waste presentation education & bin provision;
 - Awareness raising;
 - Schools – Really Rubbish;
 - Literature was promoted in fifteen languages;
 - Multi media channels were used, for example, twitter;
 - Tidy Text – as system used to remind people when to put out their rubbish;
 - Participation Monitoring (soon to be replaced by a new app);
 - Compositional analysis, i.e. identify the type of litter generated and then raise specific awareness.
11. Beyond the educational and awareness approach the enforcement options available to the Council include:

- Fly tipping investigations and prosecutions;
- Action against those who incorrectly present domestic and commercial waste;
- Waste Controls – transfer notes and carrier licenses are required for the removal and disposal of waste;
- Proactive and reactive waste enforcement patrols;
- Littering – action is taken against people who litter from vehicles and against dog fouling;
- Accumulations on land – Council can take action against individuals who allow litter to get out of hand on their land;
- Frontages – action to ensure frontages are kept clear;
- Street Litter Control Notices;
- Shopping trolleys – the Council is now creating an “Abandoned Shopping Trolley Policy”.

12. The main litter challenges identified in Cardiff are:

- Raising awareness of litter issues across the city;
- Dealing with dog fouling problems;
- Flats – predominantly the presentation of litter for collection from flats;
- Litter in areas of transient populations, for example, student areas. Because of the transient nature of these areas new education initiatives constantly have to be repeated;
- Frontages – ensuring that people take responsibility for keeping frontages clear of litter and the difficulty in enforcing against this;
- Increasing active/eating on the go culture.

13. The main performance indicators used by the Council to measure street cleanliness are:

- Use of bi-monthly LEAMS (Local Environmental Audit & Management System) surveys – these measure street cleanliness, not performance of cleansing teams;
- Two established performance indicators - the Cleanliness Index and the percentage of Highways to a High or Acceptable Standard of Cleanliness.

14. The recent 'Local Government Data Unit Wales Report – 2014/15' considered two key performance indicators which relate to litter and cleanliness. These were:
- **'Percentage of land of a high or acceptable of cleanliness'** - when compared against the other Welsh local authorities Cardiff came 22nd out of 22 with a score of 86.8%.
 - **'Percentage of reported fly tipping incidents cleared within 5 working days'** - when compared against the other Welsh local authorities Cardiff came 21st out of 22 with a score of approximately 82%.

Future options being proposed in a November Cabinet Report

15. As previously explained a report titled 'City Operations – Broadening Enforcement Powers to Improve the Public Realm' is due to be received at the Cabinet meeting on the 12th November 2015. A draft copy of this document has been attached to this report as **Appendix 1**. The reasons for the report are described as:
- To delegate the authority to the Director of City Operations, in consultation with the Environment Cabinet member and Transport, Planning & Sustainability Cabinet member as appropriate to make use of the new powers and set fine levels in order to tackle environmental crime in our city.
 - To invite the Cabinet to endorse the consultation work for the introduction of wider enforcement powers in relation to controlling distribution of free literature (such as flyers and posters) and also the consideration of dog controls across Cardiff.
 - To provide policy and operational guidance on Fixed Penalty Notices for Highway and Environmental Offences, so our approach is clear and transparent.
 - To delegate the authority to the Director of City Operations, in consultation with the Environment Cabinet Member to explore a 12 month commission based trial with an external partner for the issuing such as littering, highways and dog fouling fines, so internal staff can focus on waste presentation and increasing recycling.

16. This item will provide Members with the opportunity to consider the range of powers that the Council has to issue Fixed Penalty Notices (FPNs) via the Environmental Protection Act 1990, Dogs (Fouling of Land) Act 1996, Control of Pollution Act 1989, the Highways Act 1980 and the Anti-Social Behaviour, Crime and Policing Act 2014 (supersedes Anti-Social Behaviour Act 2003). It will also consider the work which has been undertaken by the City Operations Directorate to review existing and new legislation (including different approaches) that can be used to protect and enhance street scene and open spaces. By adopting existing and new legislative powers and delivering alternative approaches to enforcement the Council hopes to improve working practice to enhance the controls on our environment.
17. It is felt that the wider powers outlined in the Cabinet report can be used to improve the control which the Council has over the following areas:
 - Dog fouling and control of dogs;
 - Litter and nuisance from litter;
 - Control of printer literature (fly posting and flyers);
 - Skips on the highway, A-frames, tables and chairs.
18. These are all issues that repeatedly appear as priorities in Cardiff's public consultation surveys. Dog fouling, fly posters and litter can quickly spoil an area, while street clutter and uncontrolled placement of items such as skips and a-frames can cause the obstruction of our pavements and roads.
19. The Anti-social Behaviour, Crime and Policing Act 2014 that came in to force recently could help the Council deliver greener and safer communities. The new Act was passed in March 2014, with most of the powers under the Act coming into force in October 2014. However, some elements of the Act relating to prevention of nuisance and annoyance were delayed to 2015 – this has meant the Council is only now in a position to consider new powers such as 'Community Protection Notices' (CPNs) and 'Public Space Protection Orders' (PSPOs).
20. The Cabinet report focuses on the development of five key areas for improved litter management and enforcement, these are a) Community Protection Notices; b) Public Space Protection Orders; c) Control of Printer Literature (Fly Posting & Flyers); d)

Issuing of Fixed Penalty Notices by Highways Services and e) Litter Enforcement Support.

Community Protection Notices

21. The adoption of Community Protection Notices will increase our powers to tackle non-branded takeaway litter, poor control of properties and land that lead to fly tipping or litter and also waste accumulations on private land which can have a negative impact on the surrounding community. Section 43(6) of the Act requires any person issuing a notice, before doing so, to inform any individual or body that is felt to be appropriate. Therefore, the Council will undertake consultation exercises with the targeted communities such as landlords; city centre business, appropriate landowners and also the South Wales Police.
22. The notice can only be issued if the individual or body has been given a written warning to cease the conduct and provided with enough time to deal with the matter. However, failure to take action will result in a formal notice. Failure to comply with this notice will result in prosecution, or the option of a Fixed Penalty Notice that cannot exceed £100. Alternatively, the Council also has the option of carrying out remedial work where the requirements of a Community Protection Notices are not carried out provided that the land is open to the air. The local authority can then reclaim the costs from the “defaulter”.

Public Space Protection Orders

23. The Council does not currently have any dog controls in place across the city to control where dogs can go, whether they need to be on a lead or how many dogs a person can control at any one time. The authority does, however, enforce dog fouling on the public highway and council land. This results in a fine of £80 for those irresponsible dog owners that let their dog foul and fail to remove it.
24. These types of orders are designed to stop individuals or groups committing anti-social behaviour in a public space. The Public Space Protection Order replaces dog control orders and allows the authority to designate public places for restrictions. Prohibition notices can be used for specific areas and/ or times, for example

stopping dogs from entering playgrounds, schools grounds or restricting how many dogs could be taken through a public area by one person. By adopting the Public Space Protection Order the fine for any breach, including dog fouling would be £100.

25. It should be noted that there are growing concerns across the United Kingdom on attacks by dogs. By September 2015 thirty one people had been killed by dog attacks in the United Kingdom. The aim of using the Public Space Protection Order is to encourage responsible dog ownership and reduce other incidents involving dogs such as straying; dog bites and attacks; fouling on sports pitches and the dog fouling on our streets and green spaces. Such controls in play areas could also prevent problems becoming more serious and thus reduce the number of dog bites. Warnings can also be given to individuals who allow their dogs to roam freely without control causing nuisance. The Council will also should look to provide suitable dog walking areas in the locality, where other restrictions are in place.
26. Once in place an order can last for up to three years but can be extended (and more than once). It is also good practice to put up signage in the controlled areas.
27. The issues of fixed penalty notices for the offences of littering under the Environmental Protection Act 1990 and failure to comply with a Dog Control Order as introduced under the Clean Neighbourhoods and Environment Act 2005, will continue until the new notice is in effect.

Control of Printed Literature (Fly Posting & Flyers)

28. One area of growing environmental concern that impacts on Cardiff's street scene is the distribution of literature. When this material is discarded, it can blight public spaces; have a negative visual impact on an area; increase litter in an area and contribute to antisocial behaviour. This also impacts on the cleansing services by requiring additional time, resources and money to remove the excess litter.
29. If "control zones" were declared, any business or organisation wishing to distribute free materials within them would first need to gain a licence. The cost of the license would cover the administration and consent of the application fee; contribute to cleansing cost of any potential litter created; prescribe the rules distributors must

follow and also how they will support the removal of any waste created from their activities.

30. Under section 94B and Schedule 3A of The Environmental Protection Act 1990 (brought in by the Clean Neighbourhoods And Environment Act 2005, inserted by Section 23), gives the Principal Litter Authority the power to control the free distribution of printed matter where areas are being defaced by litter arising from such activities. This includes any newspaper, document, card, leaflet, pamphlet, poster, sticker or other literature for which no charge is made to the recipient. Designate land can include relevant land of the authority, and/or highway. A consultation exercise will be undertaken to determine suitable areas of designated land. Anyone wishing to distribute free literature within designated zone in the city would have to first apply for a licence. Failure to adhere to or not having appropriate approval will result in a £100 fine.
31. There is no need to obtain consent to distribute leaflets by or on behalf of a charity, for political or religious purposes. All other non-commercial organisations are required to obtain consent within the declared zones. Those failing to obtain or follow the terms of their license can be fined £80.

Issuing of Fixed Penalty Notices by Highways Services

32. The Highway service issues a significant number of licenses for permissions relating to the highway. They deal with approximately 1,300 licensing and enforcement enquiries per year. The issuing of a Fixed Penalty Notices for failure to adhere to license conditions or not seeking the appropriate permissions is deemed to be a quick way to resolve matters.
33. The current requirements to obtain a license to place various items on the public highway remain unchanged, but any future breach would be dealt with by a Fixed Penalty Notice rather than a prosecution. These changes will be communicated to the current license holders and all new applicants.

Litter Enforcement Support

34. The enforcement of littering and dog fouling can be time consuming and not always cost effective for enforcement officers and rangers to undertake, however, it remains a constant high priority in the annual Ask Cardiff surveys. The enforcement officers cover a wide range of activities with the primary focus on fly tipping investigations and waste presentation. Undertaking patrols for those dropping litter or dog fouling takes their time away from waste presentation issues.
35. The number of fines issued for littering by pedestrian ranges from 550 to 700 fines per annum and contributes to less than 5% of all the activity undertaken by the Enforcement Team. With the recent recycling collection changes and pressure to meet the statutory recycling target the Council has decided to prioritise waste presentation issues and recycling education.
36. The report proposes a 12 month trial with a third party company to take on the aspects of littering, dog fouling and other Fixed Penalty Notice patrols in order to maximise activity in these areas. This it is hoped will free up existing officer time and allow them to support the recent collection changes and recycling education support. It is anticipated that the trial would be commission based and so incur no set up costs for the Council. The provider would take a percentage of the fine income generated with the remainder being passed onto the Council. A trial would provide the Council with flexibility to explore this alternative approach of working. The trial could either be formally procured or a business plan developed for an in house model.

Way Forward

37. Councillor Bob Derbyshire, Cabinet Member for the Environment has been invited to attend for this item. He will be supported by officers from the City Operations Directorate.

Legal Implications

38. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to

consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

39. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATIONS

The Committee is recommended to:

- i. Note the contents of the attached report;
- ii. Consider whether they wish to pass on any comments to the Cabinet following scrutiny of 'Litter Management & Enforcement in Cardiff'.

MARIE ROSENTHAL
Director of Governance & Legal Services
4 November 2015