

Runnymede Borough Council
ENVIRONMENT AND SUSTAINABILITY COMMITTEE

21 June 2018 at 7.30pm

Members of the Committee present: Councillors Mrs G Warner (Chairman) D A Cotty (Vice-Chairman)
R J Edis, T J F E Gracey, Mrs M T Harnden, D J Knight,
Miss J K Sohi, N Wase Rogers and M L Willingale

Members of the Committee absent: Councillor M T Kusneraitis

112 FIRE PRECAUTIONS

The Chairman read out the Fire Precautions.

113 MINUTES

The Minutes of the meeting of the Committee held on 15 March 2018 were confirmed and signed as a correct record.

114 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor M T Kusneraitis

115 REPORT ON TRIAL ENFORCEMENT OF LITTER AND DOG CONTROL LEGISLATION

The Committee was given an update on the outcome of the trial enforcement initiative covering the service of fixed penalty notices for litter and dog control legislation provided to the Council by Kingdom Environmental Protection Services (KEPS).

In January 2017 an active 12 month trial of enforcement of FPN's run by KEPS from June 2017 to June 2018 was approved. Working to a 'zero tolerance' approach KEPS, had issued a total of 1896 FPN's for litter or dog control offences up to 31 March 2018. Under the current arrangements KEPS would continue to enforce littering and dog fouling legislation in Runnymede until 31 July 2018.

Members reviewed the data detailing the number of FPNs issued, fines collected, fees paid and costs. It was noted that the number of FPNs issued in relation to dog fouling was disappointing but understandable given that the commission of the offence was fundamentally different from that of littering. However, in areas where KEPS Officers had patrolled at the request of Council Officers, their visible presence had tended to result in owners cleaning up whilst the Officer was on site. It was therefore likely that the number of FPN's for dog fouling would continue to be very low whilst the actual issue of dog fouling in areas of the Borough remained problematic.

With regard to litter, the majority of FPNs had been issued for dropping of cigarette butts and it was disappointing that, despite appropriate publicity, smokers still failed to realise that butts were classified as litter

At the outset of the trial the impression was given by KEPS that prosecution of non-payers was a fairly straightforward matter and something that the contractor appeared well practiced in. Standard prosecution packs were proposed and assurances given that most cases could be dealt with by the single justice procedure (SJP). In practice, this had not been the case since the SJP system did not currently operate in the Surrey courts and consequently it was more down to the valuable oversight and assistance from RBC Legal Officers that RBC had been as successful as it had in taking action against 83 littering offenders for non-payment of FPN's.

Members were advised that given the 'confrontational' nature of issuing FPN's direct to the individual (unlike parking notices being placed on the vehicle) there had been a steady turnover of KEPS staff throughout the trial period. There had been three separate assaults on Kingdom staff, which RBC would have to consider if a similar service was provided in-house.

Other than representations made in respect of individual FPN's (of which there were many) complaints tended to be about how unfair the system was in that offenders should be given a warning or an opportunity to pick the litter up. Other representations referred to the lack of bins specific to the area of the offence or were related to ability to pay and requests for extended payment periods. However, on the whole the enforcement action had been positively received.

Concerns had been raised from Police colleagues initially regarding the number of calls made from Kingdom officers requesting police attendance where offenders would not provide their names and addresses, which led to frustrations on both sides. Ultimately Kingdom was instructed not to call for police support unless there was a genuine physical threat or actual harm to the enforcement officer.

There was no simple way by which the enforcement trial could be measured from a success point of view. Improvement in the number of littering offences was however noted, with less littering complaints being received particularly in relation to high streets. Officers believed there was both Member and public support for maintaining an effective enforcement deterrent for both littering and dog fouling problems within the Borough.

In terms of future provision, other than some changes in clarification of contractor and local authority rules brought in since the trial began (dealing with representations and new legislation on littering from vehicles) the sound reasons for using an outside contractor had not changed and Officers recommended this as the best way forward for the Council based on the lessons learned from the trial period.

In order to facilitate this, Officers also recommended that the present contract (i.e. the trial period) with KEPS be extended until 31 December 2018 in order to allow a full service specification to be drawn up taking account of the trial results and a comprehensive tendering process taking place.

Members were very supportive and fully endorsed the proposal to continue to provide enforcement of littering and dog fouling in the Borough. It was noted that a minor surplus of funds had been accrued over the trial period and therefore it was suggested that future accruals should be utilized to fund infrastructure in reducing littering, for example; the provision of more litter bins

Members also felt the success of the trial and the continuation of enforcement action should be communicated to residents via social media and any other publicity available.

RESOLVED that –

- i) The outcome of the trial be noted;**

- ii) **delegated authority be given to the CEPES/EH&L Manager to tender the enforcement of fixed penalty notices for littering and dog control legislation for a minimum two year period (with flexibility to extend for further fixed periods);**
- iii) **the current arrangements with KEPS be extended until 31 December 2018 to maintain the present enforcement and deterrent capabilities whilst the recommended tender exercise is undertaken; and**
- iv) **Contracts Standing Order 2.5 continue to be waived for the reasons reported to facilitate the extension of the trial period up to the end of December 2018.**

116 ANIMAL WELFARE AND LICENSING

The Committee was informed that the Animal Welfare (Licensing of Activities involving Animals) (England) Regulations would come into force on 1 October 2018.

The Regulations would harmonise a number of animal licensing schemes under one piece of legislation and required persons in England involved in selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition to be licensed for those purposes. The requirement under the new Regulations replaced the current requirements to be registered under the Performing of Animals (Regulations) Act 1925 or to obtain a licence under the Pet Animals Act 1951; the Animal Boarding Establishments Act 1963; the Riding Establishments Act 1964 or the Breeding of Dogs Act 1973.

The 2018 Regulations set out amongst other things how a person applied to the local authority for a licence and set out matters a local authority must be satisfied with when considering the granting or renewing of a licence. It provided for the local authority to charge fees to cover the costs it incurred in performing this function, considering a licence holder's compliance with these Regulations, enforcement and administration. In addition the Regulations set out the circumstances and procedures under which the licence may be suspended, varied or revoked. Each local authority must provide prescribed information to the Secretary of State including the number of licences in force and fees charged on an annual basis starting on 1 April 2019.

Currently all animal related registrations and licences were issued on an annual basis to run from 1 January for a twelve month period. The new Regulations allowed for licences to be issued for up to one, two or three year periods at any time during the calendar year. A transitional period would be allowed for any existing licences in place to continue in force for the remainder of their term. No action would be taken against any persons holding such licences under the Regulations until the expiry date of those licences or in the case of a person registered under the Performing Animals (Regulation) Act 1925 for a period of six months starting from 1 October 2018. The new Regulations also allowed for fees to be charged and guidance on fee setting was awaited from the Government.

So far in 2018 RBC had issued 26 animal related licences. The 2018 Regulations expanded and clarified definitions of activities subject to the new licensing regime eg animal boarding now covered four distinct activities including providing home boarding for dogs and providing day care for dogs. Further, the number of breeding bitches kept by a person before licensing would be required would be reduced from 5 litters in any 12 month period down to 3 litters. These changes together with a requirement for anyone breeding dogs and advertising a business of selling dogs to be licensed was expected to result in a rise in new applications and licences issued by local authorities. For example the Government estimates the number of dog breeders to be licensed will increase country wide from the present 650 to around 4950.

Currently the Environmental Health staff resources dealing with animal licensing is 0.12 FTE. Whilst this resource may be sufficient to cope with the new licensing scheme once in place, existing resources may not be sufficient to deal with investigation work, following up complaints and enforcement work in policing illegal operators. A further report would be brought back to this Committee once the full impact was known.

Whilst supportive of the new Regulations Members were concerned that residents may not be aware of them and inadvertently not comply and therefore face a fine. Officers advised the Committee that the Environmental Services team would be looking at ways to communicate the changes to residents via social media and other publicity channels. Members appreciated that current staffing resources may need to be reviewed in order for Officers to offer a proactive approach to the new Regulations.

RESOLVED that –

- i. the scheduled date for the coming into force of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 be noted;**
- ii. the CDPEs and the EH&L Manager be authorised to authorise any person to act for the purposes of enforcing the Regulations in Runnymede; and**
- iii. the CDPEs and the EH&L Manager be authorised to issue any applicable notices and grant, suspend, vary, revoke or reinstate suspended licences under the Regulations**

117 FOOD SERVICE PLAN 2018/19

Members of the Committee were asked to approve the proposed Food Service Plan for 2018/19.

The Food Standards Agency (FSA) had produced a framework agreement on local authority food law enforcement. One part of that agreement contained service planning guidance. This ensured that key areas of enforcement covered by the Food Law Enforcement Standard were included within local Food Service Plans, whilst allowing scope for flexibility and the inclusion of any locally defined objectives. The requirement to produce a local Food Service Plan came into effect on 1 April 2001.

Members reviewed the proposed Plan for 2018/19 and recommended it for approval by Full Council.

RECOMMEND TO FULL COUNCIL that –

the Food Service Plan for 2018/19 be approved by Full Council on 19 July 2018.

118 LITTERING FROM VEHICLES OUTSIDE LONDON (KEEPERS: CIVIL PENALTIES) REGULATIONS 2018

The Committee was informed of the Littering of Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 and the proposed Modification to the Code of Practice on Litter and Refuse: Guidance on effective enforcement Consultation April 2018.

The Regulations made provision for a litter authority (a district council in England) to give a penalty notice to a person who was the keeper of the vehicle where the litter authority had reason to believe that a littering offence had been committed in respect of that vehicle on the authorities land i.e. the land in respect of which the litter authority is under a duty to keep clear of litter.

The penalty notice was a written notice requiring the person to pay the amount specified by the litter

authority for the normal offence of dropping litter, for which RBC had already set a penalty fee of £100. If this penalty was not paid in full within the period of 28 days beginning with the day when the penalty notice was given (unless subject to a representation or adjudication) the amount of the penalty would increase to £200. The authority may make provision for treating the £100 penalty paid if a lesser amount was paid within a 14 day period of the penalty notice being issued, the lesser amount not being less than £50. Officers recommended that the lesser amount of £80 be specified as the reduced amount if paid within 14 days which was in line with the 20% reduction applied to other environmental penalty charges set by this Committee.

The Regulations detailed how the written notice must be given and what information the notice must contain. Further, the Regulations provided exemptions for keepers of public service vehicles and licensed taxis etc. in that they were not liable to pay a fixed penalty in relation to any littering offence committed by a person who at the time of the offence was a passenger in the relevant vehicle. Part 4 of the Regulations detailed the procedures that RBC would have to carry out when a person made representations or appeals. The Regulations prescribed time frames by which the local authority had to deal with the representations or the handling of appeals.

The Committee was also informed of the current Government consultation aimed at modification of the 2006 Code of Practice on Litter and Refuse, and it was expected that new guidance on 'Effective Enforcement' would be issued shortly. Whilst Officers were confident that the present 'enforcement arrangements' between RBC and KEPS would comply with the updated Code, Members attention was drawn to three enforcement issues going forward, namely the option of payment of penalty fines by instalments, the responsibility for the whole enforcement process resting with the enforcement authority regardless of it being outsourced and the prohibition on contracting out consideration of representations or challenges against penalties, and publicity of contracts with external contractors.

RBC's present arrangement in respect of FPN and penalty charges was that payment periods be extended in preference to 'payment by instalments'. Should RBC choose to offer instalment payments in the future, it may present its own problems in administration in both accepting and tracking payments together with potential default issues etc. However, instalment payments could be considered on a case by case basis and any future enforcement service provider would be expected to facilitate such payments.

The consideration of representations in regard to the present enforcement trial was in the first instance undertaken by KEPS overseen by the Environmental Health and Licensing Manager who retained overall decision making responsibility. The Council would need to ensure similar governance arrangements were in place with an 'appropriately identified officer' in regard to any future external service provider.

For transparency purposes, the Council currently publicised contracts over £5,000.

Officers advised Members that enforcement of the new Regulations might be included in the proposed enforcement tender.

RESOLVED that –

- i. the coming into force of the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 and the proposed Modification to the Code of Practice on Litter and Refuse: Guidance on effective enforcement Consultation April 2018 be noted;**
- ii. the amount of fixed penalties fines payable, early repayment fees and specified early repayment fees as set out in the preamble of resolution be approved; and**
- iii. The CDPES and the EH&L Manager be authorised to perform any litter authority functions conferred on RBC under the Regulations and to authorise**

employees of RBC and other persons, as “authorised officers” for the purposes of the Regulations.

119 RECYCLING AND REFUSE SERVICES MEMBER WORKING GROUP

The Committee considered the arrangements for this Committee’s specialist Member Working Group for the 2018/19 Municipal Year and was asked to confirm if they were content with current title, the terms of reference, political composition and proposed frequency of meetings.

The composition of the Group was 4 Conservative Members, together with 2 Runnymede Independent Residents’ Group Members. All Members of the Council could attend meetings of this particular Working Group subject, however, to the prior agreement of the Chairman of the Environment and Sustainability Committee.

The Committee wished the Member Working Group to continue with its current title, terms of reference, political composition, frequency of meetings and made the appointments set out in (ii) below.

RESOLVED that

- i) the Recycling and Refuse Services Member Working Group continue in the 2018/19 Municipal Year with the current title, terms of reference, political composition and frequency of meetings; and**
- ii) Councillors Cotty, Edis, Mrs Gill (Chairman), Mrs Harnden, Mrs Warner and Wase-Rogers be appointed to the Member Working Group for the 2018/19 Municipal Year.**

120 MINUTES OF THE MEMBER WORKING GROUP ON RECYCLING AND REFUSE SERVICES

The Minutes of the meeting of the Member Working Group held on 5 April were noted

121 STANDING ORDER 42 – URGENT ACTION

The following action taken after consultation with the Chairman of the Committee under Standing Order 42 was noted.

<u>Officer</u>	<u>Action</u>	<u>Central Index No</u>
Environmental Health and Licensing Manager	To extend the present Environmental Enforcement trial of littering and dog control from its current end date of 6 June 2018 up to and including 31 July 2018.	903

122 DSO REVIEW – PROGRESS REPORT

By resolution of the Committee, the press and public were excluded from the meeting during the

consideration of this matter under Section 100A(4) of the Local Government Act 1972 on the grounds that the discussion would be likely to involve the disclosure of exempt information of the description specified in paragraph 3 of Part 1 of Schedule 12A of the Act.

The Committee received an update on progress in the review of the Direct Services Organisation (DSO).

New financial arrangements with Surrey County Council (SCC) were due to come into effect in 2018. This impacted on the recycling credits received by RBC (the waste collection authority) (WCA) from SCC (the waste disposal authority) in the future. Therefore, Officers had conducted a review of the DSO to assess present operations, identify key operational challenges and issues and identify service improvements and related investment necessary to sustain the current service.

The extent of the DSO review and the achieved and proposed outputs were noted. The Committee was pleased to note the review of salaries and wages at the DSO.

With regard to waste / recycling collections and street cleansing services, the Committee was informed that Amey PLC provided these services in Elmbridge, Woking and Surrey Heath for Joint Waste Solutions (JWS). The partnership would also be providing services in Mole Valley from August 2018. Two other Surrey Boroughs were seeking detailed costs to join the partnership. The DSO Review Board had also engaged with JWS in order to understand the option to join the partnership at a future date

An outline cost based on unit prices for the cost of collection of a bin, cleaning a street etc, could be provided by Amey PLC at no cost to RBC, based on the current RBC service and volumes. This outline cost could be used to benchmark the DSO service and assess its future sustainability. On this basis, outline costs were being pursued by RBC, but this could take up to 4 months to obtain.

Depending on the assessment of the returned outline cost, the cost could be further refined by Amey PLC to meet the specific requirements of RBC at a further stage. The production of a detailed quote would cost in the region of £20,000 plus significant Officer time and resources. The Committee was advised that the initial outline cost along with other benchmarking activities would enable Officers to make an informed decision on whether to proceed with a detailed costing. The Committee recommended that Corporate Management Committee be requested to approve a supplementary revenue estimate to cover the detailed costing in the event that the outline cost was assessed as worth pursuing.

Members congratulated the DSO on the excellent service and value it had provided to residents to date. It was appreciated that whilst it was important to look at new options available, JWS needed to be cost effective and able to provide the standard of service residents currently received. It was suggested that Officers should obtain information on satisfaction with the service from other authorities using Amey PLC.

RESOLVED that –

- i. the progress of the DSO Review Group be noted; and**
- ii. the Corporate Management Committee be requested to approve a Supplementary Revenue Estimate of £25,000 for 2018/19 to cover detailed costing of the JWS service provision only if the outline cost received is assessed as worth pursuing further.**

Chairman

(The meeting ended at 8.09pm)