



Communities Scrutiny Group

Thursday, 28 January 2021

Fly Tipping, Dog Fouling and Littering - Part Two

Report of the Executive Manager – Neighbourhoods

1. Purpose of report

- 1.1. To provide an update on the Council's approach to litter and dog fouling in the Borough.
- 1.2. Councillors are asked to acknowledge and provide feedback on the report and the supporting presentation.
- 1.3. The scrutiny of this item was considered at Corporate Overview Group at its meeting on 25 February 2020, whereupon it was agreed that an update be provided for the consideration by the Communities Scrutiny Group. Part One considered fly tipping and was brought to this Group in July 2020. This is Part Two and relates to both litter and dog fouling.

2. Recommendation

It is RECOMMENDED that the Communities Scrutiny Group considers the report and provide feedback on the Council's approach to tackling litter and dog fouling.

3. Reasons for Recommendation

- 3.1. To update the group on the Council's approach to litter and dog fouling in the Borough which is a key function to support the delivery of the Corporate Priority on 'the Environment' and 'Quality of Life' as a clean Borough enhances how people feel about their local area and the protection of public health
- 3.2. The cleanliness of streets and open spaces is a high priority for local residents particularly with regard to dog fouling, littering and fly tipping.

4. Supporting Information

- 4.1. Section 89(1) of the Environmental Protection Act 1990 places a duty on certain bodies such as the Council to ensure that their land (or land for which they are responsible) is, so far as is practicable, kept clear of litter and refuse. In practice, this means that the Council has a responsibility for litter, including dog fouling removal from public land, including adopted open spaces and highways.

- 4.2. Litter is most commonly assumed to include materials, often associated with smoking, eating and drinking, that are improperly discarded and left by members of the public; or are spilt during business operations as well as waste management operations. However, as a guideline, a single plastic sack of rubbish should usually be considered fly tipping rather than litter. Dog fouling is also identified as a type of litter albeit in its most offensive form.
- 4.3. The Council has a robust and well-developed process for receiving service requests relating to litter which are recorded within a software management system. If the request relates to a cleansing issue, Streetwise Environmental Services Ltd deals with it, in accordance with the Council's contract. If there is indication of an offence or intelligence of a perpetrator, the case will be passed to the environmental health team to investigate.
- 4.4. The Council works very closely with Streetwise Environmental Services Ltd as its appointed contractor and this relationship is key in order to maintain high standards of cleanliness across the Borough. The contract commenced in September 2014 for an initial five-year period and was subsequently extended in September 2019 for a further three years to September 2022.
- 4.5. A prime contract defines how Streetwise are responsible for delivering cleansing services for Rushcliffe at an agreed frequency and standard. In return, the company is financially reimbursed for the work carried out. Performance is measured through key performance indicators and current performance is good where streets passing cleanliness inspections is 97.4% (target 98%) for litter and 100% (target 99%) for dog fouling.
- 4.6. Performance on both litter and dog fouling is measured by carrying out monthly inspections across the Borough. Areas are chosen and broken down into small transects and graded according to how much litter or dog fouling may be present. This is a nationally used measure of recording where areas are graded from A to D, with A being totally clean and D heavily littered or large amounts of dog fouling being present.
- 4.7. Rushcliffe is, in general, a tidy Borough and inspections over the last 12 calendar months showed that 660 inspections were carried out with 15 failing for litter and none failing for dog fouling. This is not to say dog fouling is not an issue in certain areas, and when encountered it can be particularly unpleasant; however, the main the roads and footpaths inspected show little or no issues with dog fouling.
- 4.8. To support responsible disposal there are currently 900 litterbins and 280 dog bins across the Borough which are emptied on varying schedules dependent on usage and local footfall. Members of the public may request additional emptying and additional resources are sometimes deployed dependent on usage, which significantly increases over holiday periods. An increase in use has also been noted due to the pandemic in some areas.

- 4.9. Since January 2020, the Council has received 142 request from members of the public to deal with litter issues and 105 reports of dog fouling. Often reports of dog fouling may be duplicated and can be in one particular area. In such circumstances, the Council may review the need for additional bins and work with the dog wardens to monitor the area for repeat offenders. In response to requests from the public, 15 new litter bins and five new dog bins have been installed over the last 12 months following an assessment of the local area.
- 4.10. Historically the Council does not generally undertake high profile litter enforcement patrols and does not employ specific staff to do so such as Community Wardens given the generally clean condition of the Borough. Along with the good performance of Streetwise through both reactive and proactive street cleansing work, this has always been considered a proportionate approach. However, the Council has taken enforcement action when evidence is available usually from dash cameras or a witness statement provided by a member of the public. On this basis, in 2019/20, the Council issued four fixed penalty notices for litter, three of which related to litter from a vehicle. So far in 2020/21 the Council has issued 11 fixed penalty notices, three of which related to litter from a vehicle.
- 4.11. As part of the overall strategy and to support the cleaning and enforcement work the Council also undertakes regular campaigns to educate the public including the most recent “Don’t be a Tosser” campaign which is designed to create positive behaviour change and a more responsible attitude to litter disposal.
- 4.12. In terms of the legislative framework for dog fouling the Dogs (Fouling of Land) Act 1996, enabled councils to make Designation Orders in respect of land which was open to the air on at least one side and to which the public were permitted to have access (with or without payment). Certain categories of land were specifically excluded from the power of designation, e.g. woodland and land adjacent to a highway/carriageway where the speed limit was more than 40 mph. The effect of designating land was that it became an offence for someone in charge of a dog, which defecated to fail to remove the faeces from the land forthwith. The Council made a Designation Order in 1998, which included certain types of land by description and a number of parks and playing fields within West Bridgford and the parishes. An Order was also made for Rushcliffe Country Park, Ruddington, excluding wooded areas.
- 4.13. The Clean Neighbourhoods and Environment Act 2005 revoked the Dogs (Fouling of Land) Act 1996; however, the 1996 Act continues to apply to any land designated prior until such time as the designation is superseded by a dog control order made under the 2005 Act. Provision is made in the 2005 Act for the Council to issue fixed penalty notices for breaches of a dog control order.
- 4.14. To date the Council has been of the opinion that the existing dog control framework in place across the Borough provides sufficient measures to tackle the problem taking into account its overall strategy and approach.

- 4.15. In 2019/20, the Environmental Health team received a total of 69 service requests/reports relating to dog fouling, the average number of service requests received annually over the past five years is 111.
- 4.16. Service requests relating to dog fouling are recorded in the same way as litter on the Council's management system and sent to Streetwise for cleansing action and where appropriate they are also investigated by one of the Council's two dog wardens. The dog wardens will attempt to carry out patrols in the hot spot areas and where necessary they will facilitate additional signage and/or bins. It should be noted that these two officers also undertake pest control and animal welfare duties; consequently, the time that they can allocate to undertaking proactive patrols is extremely limited.
- 4.17. A key challenge for enforcement is that Fixed Penalty Notices can only be served at the time of the offence and, therefore, it can be very difficult to witness an offence especially if it occurs at night in the winter. As a result, no fixed penalty notices have been issued for dog fouling in the previous five years.
- 4.18. The current levels for fixed penalty notices are available on our web site but are provided in Appendix 1.
- 4.19. In a similar approach to litter, the Council has undertaken a long history of regular communication campaigns relating to the prevention of dog fouling and this has extended to working with key partners such as Parish Councils who promote similar valuable communications to promote responsible dog ownership.
- 4.20. At the July 2020 meeting of this Group, Councillors acknowledged the very limited resources available to undertake enforcement of environmental crimes and requested that officers investigate the need for additional resources. In looking at best practice elsewhere, it is recognised that the private sector can complement the services of local authority staff by offering a more targeted and cost-effective approach. Accordingly, we have commenced a 12-month trial with a private sector partner "WISE" which is providing dedicated resources to investigate all fly tipping reports and also undertake routine patrols at litter and dog fouling hot spots at zero cost to the Council. "WISE" staff have delegated authority to issue fixed penalty notices (FPNs) where offences have been found. The trial will be closely monitored, and the outcome evaluated prior to any further decision to continue.

5. Risks and Uncertainties

- 5.1. The Council's overall strategy to tackle litter and dog fouling has to balance carefully achieving successful outcomes with affordability. However, there is clearly a risk attached to failing to maintain a clean Borough in terms of statutory duty, delivery of the corporate priorities and residents' perception.

5.2. As with all enforcement activity, there is the potential for criticism and negative feedback suggesting an overzealous approach to make a profit. This will be closely monitored particularly in relation to the new “WISE” trial by officer’s undertaking audit reviews and spot checks where necessary.

6. Implications

6.1. Financial Implications

Streetwise Environmental Ltd undertakes the emptying of litter and dog fouling bins, and cleansing, and therefore, the cost is contained within the contract price.

The cost of officer time spent on prosecutions is recouped from offenders through court proceedings.

The income from fixed penalty notices will be collected by “WISE” which will retain 100% during the first month of the service and 95% from month two. The agreement is based on zero cost to the Council.

6.2. Legal Implications

Investigations are carried out in accordance with the law for example: the Environmental Protection Act 1990; the Police and Criminal Evidence Act 1984; and the Regulatory Investigatory powers (RIPA) Act 2000

6.3 Equalities Implications

None identified

6.4 Section 17 of the Crime and Disorder Act 1998 Implications

Litter and dog fouling are a form of environmental crime and undertaking work with our Community Safety Partners will help to support our crime and disorder obligations

7. Link to Corporate Priorities

Quality of Life	A clean borough enhances how people feel about their local area and the protection of public health
Efficient Services	Maximising value by utilising private sector partners
Sustainable Growth	n/a
The Environment	Protecting the local environment by minimising environmental crime

8. Recommendations

It is RECOMMENDED that Councillors consider the report and provide feedback on the Council’s approach to tackling litter and dog fouling.

For more information contact:	Dave Banks Executive Manager - Neighbourhoods 0115 9148438 dbanks@rushcliffe.gov.uk
Background papers available for Inspection:	Report to Communities Scrutiny Group 23 July 2020 "Litter, dog fouling and fly tipping (Part One – Fly Tipping)
List of appendices:	Appendix 1 – Fixed Penalty Levels

Appendix 1 – Fixed Penalty levels

Offence	Adopted full penalty (£)	Adopted discounted penalty (if paid within the discounted period) (£)
Littering	100	75
Graffiti	100	50
Fly posting	150	75
Unauthorised distribution of free literature on designated land	No areas are designated	n/a
Nuisance parking	100	60
Abandoned vehicles	200	120
Fly tipping	400	200
Household duty of care	300	150
Failure to produce a waste transfer note	300	180
Industrial and commercial waste receptacles offences	100	60
Failing to show waste documents	200	120
Littering from vehicles	100	75
Dog fouling	100	75
Community Protection Notice FPN	100	100
Domestic waste Receptacle Offences FPN	60	40