

**Agenda Item No:** 6  
**Report To:** Cabinet  
**Date:** 10<sup>th</sup> November 2016  
**Report Title:** The Council's approach to Compliance and Enforcement :  
One year on  
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**Portfolio Holder:** Cllr Bennett



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| <b>Summary:</b> | The Council's approach to Compliance and Enforcement :<br>One year on |
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**Key Decision:** NO

**Affected Wards:** all

**Recommendations:** **The Cabinet is asked to note the progress made by the Task Group and the proposed focus for the Board moving forward.**

**Policy Overview:** The Corporate Strategy identifies strengthening the approach to enforcement in Council services as a priority.

**Financial Implications:** Additional financial provision has been made to add to the professional staffing levels in planning enforcement – other improvements to date have been delivered within service budgets.

**Risk Assessment** NO - this report is principally a summary of activity over the last year

**Equalities Impact Assessment** NO – this report is principally a summary of activity over the last year

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## The Council's approach to Compliance and Enforcement : One year on

### Purpose of the Report

1. It is a year since the Policy and Compliance Task Group first met and a good time to review progress made and set out next steps now that the Task Group has become the new Compliance and Enforcement Board.

### Issue to be Decided

2. This is a chance for Cabinet to understand and review the progress made by the Task Group, chaired by Cllr Dehnel with other members being Cllr Bennett; Cllr Bradford and Cllr Michael. It is also an opportunity to now consider the future direction and priorities for the Board.

### Background

3. The Corporate Strategy identifies the need to make sure that enforcement activity around the Council is robust. The new approach can be summarised as follows:

*It is the responsibility of individuals and businesses to comply with the law. We will do all we can to help advise and treat people fairly. But, those who flout the system deliberately and/or repeatedly and cause serious harm can expect the strongest possible response. The range of actions open to the Council and severity of penalties are often dictated by central government but, within these limits, the Council will always aim to act in way which deters others from non-compliance.*

(extract from the Corporate Policy adopted in May 2016)

4. The Policy and Compliance Task Group was set up to focus on this work. It has been supported by an officer group drawn from across the Council. The next section of this report summarises progress made.

### Progress and improvements

5. **New reporting system, updated website and promotion of our enforcement approach:**

- The council has improved its online reporting system, making it easier for residents to report issues such as fly-tipping, littering, dog fouling, vandalism, anti-social behaviour or planning enforcement issues. The new 'phone-friendly' system went live at the end of October and replaces some of our online forms, allowing residents to report incidents and then track their progress via a unique reference number;
- In addition a new enforcement webpage has been created on the council's website where information and the relevant enforcement policies can be found. Over the last six months the Communications Team has promoted the new tougher approach and has achieved significant media coverage, particularly on our new litter enforcement scheme which launched in September.

## 6. **Planning :**

- The initial focus of the Group was on planning enforcement. A quick review of the service identified that staffing devoted to enforcement was low compared to the position elsewhere in Kent. Members of the Task Group felt strongly that extra professional resource was needed and an additional staff member was subsequently recruited;
- The chairman of the Group is now involved in the regular review of the most significant enforcement cases that officers have with the Portfolio Holder, Cllr Bennett;
- A new '*Enforcement Plan for Planning*' has been produced setting out the Council's approach to enforcement; clarifying the actions that can be taken in different circumstances; and setting out performance standards that the public can expect us to meet. This Plan was adopted by the Council in May 2016;
- Work has started on improving the use of the IT system that supports enforcement case management so that officers can deliver much improved communication with members and the public on progress and outcomes of enforcement cases. This will be accelerated when key staff supporting I.T. in the Directorate return from maternity leave;
- To accelerate this focus on caseload management, a new administrative post has recently been filled, funded by staff savings made elsewhere in the Directorate in order to focus on this key priority;
- Where there are complex enforcement cases raising local concerns a targeted approach has been taken to set up a discussion bringing local people, ward members and officers together to share understanding of the issues and work together (the first such discussion group dealt with issues at Nickley Wood Road).

## 7. **Litter and dog fouling:**

- Litter and dog fouling enforcement provided through "Kingdom", began on 5<sup>th</sup> September, on a 12 month pilot;
- Feedback through the media and to the service has been, on the whole, very positive and well supported by the public;
- 305 fixed penalty notices (FPN) were served in September and to date (20<sup>th</sup> October), 573 FPNs have been served in total. The payment rate was 74%, for September, a figure which was comfortably in excess of that anticipated by Kingdom for the first month of operation;

- Kingdom will shortly be issuing pocket ashtrays to members of public (provided to us free of charge, from the Kent Fire and Rescue Service), to help deter littering;
- The “Butt ballot bin” (an alternative bin for cigarette butts) has been installed in park mall and has proved to be a “talking point” for all.
- We are running a dog fouling poster programme entitled “Take the Lead”, which we are targeting to areas of greatest need in the borough, based on level of complaint about dog fouling, to the service.

## 8. **Flytipping:**

- In October the Council successfully prosecuted in a flytipping case. A commercial window fitting company was found guilty of flytipping and received a £750 fine, ordered to pay £750 towards the legal costs plus £121.77 clear up costs;
- Another case has been put forward for prosecution and 2 more are under investigation;
- A brief report will go to January Cabinet, asking Members to agree to the provisions that became available this year to issue Fixed Penalty Notices for fly-tipping. The advice will be to set the fine at the maximum allowable which is £400. This will allow some cases to be dealt with in this manner, with the more serious still going forward for prosecution;
- The Board will shortly be considering if a dedicated officer resource should be considered to enable the Council to be more proactive in this area.

## 9. **Housing:**

- In June 2016 policies were approved by Cabinet to cover Private Sector Housing Enforcement and Prosecution Policy; Anti-Social Behaviour Policy for Ashford Borough Housing Tenants; and Housing Income and Arrears Management Policy. These policies were reviewed and to ensure that housing has the appropriate mechanisms to take firm and fair enforcement action as necessary in accordance with the corporate approach to enforcement in the borough;
- The Private Sector Housing Enforcement Policy has already resulted in three on-going cases of enforcement action against landlords to make sure that hazards are addressed within their properties. One of these has led to a court hearing as a result of an appeal;
- To help tackle anti-social behaviour amongst our own tenants the working partnership between housing and with environmental services has been strengthened widening the range of notices that can be served – for example, Senior Area Manager can now serve section 46 notices which helps deal with some of the nuisance and hazard being caused by rubbish that is being disposed of incorrectly by tenants and residents on housing land. Staff are receiving training in this and other areas such as community protection notices from Environmental Services colleagues. Housing area management currently have the following amount of live ASB cases: Low risk – 19, Medium risk – 13, High risk – 4;

- Private Sector Housing have issued section 77 notices on the following unauthorised encampments; Park Farm, Kingsnorth and Kennington. They were also involved with unauthorised encampments at four other locations where other action (police, informal, etc) was taken.

#### 10. **Unauthorised encampments on ABC land:**

- Private sector housing have worked in partnership with colleagues in legal and community safety to ensure a rapid response to unauthorised encampments on council owned land.
- In the past, Ashford, in common with all other local authorities, has been through the 'cat and mouse' game with the unauthorised encampments of enforcing the Section 77 notice in the Magistrates Court, resulting in the eventual issue of a Court Order that unauthorised encampment must leave followed by the engagement of bailiff services to clear the land in question.
- The time taken, disruption to the residents and the cost of the clear-up, forced a radical rethink of the options available and a new approach was adopted with the service of a Common law direction by the landowner to leave the land within one hour, followed up by immediate bailiff attendance to clear the land.
- This swift and radical approach results in the occupied land being cleared within 24 hours of arrival of the unauthorised encampment, rather than the typical week, when using the magistrates court method.
- In addition to the obvious benefit to the community of the unauthorised encampment being dealt with swiftly and with minimal disruption to the local residents, are the significantly reduced costs, both in the clear up of the site in question, which can easily run into excess of £10,000 when dealing with the volume of contaminated waste that can accumulate on the site in a week of unauthorised encampment and staff/legal costs in time spent on the case in question.
- Importantly, since the introduction of this radical new approach, there have been no repeat unauthorised encampments from those that have been removed. The frequency of unauthorised encampments has also reduced in general.
- Ashford Borough Council have also undertaken this work, for and on behalf of other organisations such as Kent County Council (on one occasion) and a Parish Council on a reimbursement of disbursed costs only basis, when unauthorised encampments have occurred in our borough on land that we do not own, thereby maintaining the robust 'zero tolerance' approach across the borough as a whole.
- Many other local authorities continue to use less efficient, less effective and more costly S.77 route, regarding the "Common Law" route as too risky and confrontational.
- Again, Ashford is leading the way in using the most effective enforcement methods, even if they are not necessarily the most straightforward."

#### 11. **Anti-social Behaviour:**

- The community safety team have undertaken multi-agency operations at Singleton Lake and Torrington Road to reduce ASB;

- Summer campaigns of activity focused on ASB in the Memorial Garden, Dover Place and the Stour Centre car parks;
- The closing times of the Stour Centre car parks were changed to reduce ASB;
- The play area at Mill Court was removed and landscaped. No reports of ASB have been received since this was undertaken;
- Support was provided to deal with various unauthorised encampments;
- Working with housing officers with community protection warnings in relation to anti-social parking.
- Several Public Spaces Protection Orders (PSPO) are shortly to go out for public consultation:
  - Gating order for the churchyard in Ashford Town Centre
  - Gating order for the access to the Coney Bear site on Torrington Road
  - Ashford urban ASB in relation to the consumption of alcohol in public places
  - Singleton Lake
  - Dogs on leads in cemeteries and dog fouling in the Borough generally

## 12. **Other on-going enforcement work:**

A wide range of other, everyday enforcement activity continues to take place around the Council. For example

- the Licensing Team have recently revoked a taxi driver licence; reviewed a premises licence review and carried out five night-time enforcement operations and three scrap metal enforcement operations;
- Environmental Protection have issued one community protection warning; issued two Environmental Protection Act section 80 noise abatement notices; issued one prevention of damage by pests notice and provided a representation at a licensing review;
- The Food and Health Safety Team have served 4 health and safety prohibition notices, 1 hygiene improvement notice and 1 hygiene prohibition notice;
- A report will be considered by Cabinet in December proposing a potential increase in parking enforcement staffing to respond to growing pressures.

## **Risk and Equalities Impact Assessment**

13. No risk or equalities impact assessments have been undertaken as this report is principally a progress review for information only.

## **Compliance and Enforcement Board**

14. The Task Group has now been re-constituted as the Compliance and Enforcement Board.

15. The Board has recently considered how it moves forward and the next priorities it should tackle on behalf of the Council and has identified the following areas of activity:
- *The Board is concerned about the level of staffing in some key areas of enforcement – fly-tipping and anti-social behaviour being two examples – which may limit the effectiveness of enforcement. The Board wishes to explore this issue further and potentially seek approval for additional staff resources;*
  - *The Board wish to see a lead officer who will research key enforcement issues and coordinate the investigatory and administrative requirements to enable the Board to be more proactive in carrying out its role – this person would also help to draw together corporate enforcement issues that span services in the Council and advise of the most effective method of enforcement and/or sanction;*
  - *The Board wish to develop a questioning approach, akin to a Select Committee, to explore compliance and enforcement issues by analysing outcomes – it will monitor or review previous, current and future subjects and issue the appropriate guidance. The Board is, however, very conscious of the need to avoid any duplication with the role of Overview and Scrutiny Committee;*
  - *Finally, the Board wishes to explore ways the Council can work with other agencies to tackle issues causing conflict between the gypsy and traveller and the settled communities*

## **Conclusion**

16. As the report demonstrates, a wide range of new initiatives have been taken under the Task Group's guidance in services across the Council. A new over-arching policy approach has been agreed by the Council, supported by a set of clear service specific policies.
17. Improving the public's experience of the Council's response to enforcement issues is a fundamentally important aspect. The 'Report It' function on the web site has been substantially improved and its profile raised. It complements the way existing services operate to provide much better, two way communication with the public and quicker updates on progress. Experience suggests that a better informed member of the public/complainant is generally a more satisfied one.
18. The new Board has set itself a challenging agenda as a basis for its work programme in the coming year. Comments arising at Cabinet can also be taken into account in setting the next steps for the Board.

## **Portfolio Holder (Cllr Bennett) Views**

19. "The initial focus for the Policy and Compliance Task Group was on planning but this has now been extended across all council services and many portfolios driven by the new Compliance and Enforcement Board.
20. It has brought many challenges but with support of officers this first annual report highlights considerable progress. It is just a start and the foundations are now laid with a challenging agenda for progress in the coming months and years to deal with the small minority that spoil the quality of life for the majority".

### **Chairman of the Board (Cllr Dehnel) Views**

21. "Members of the Policy and Compliance Task Group would like to congratulate officers on an outstanding year where they have demonstrated a pragmatic and innovative approach to what has been a challenging subject.
22. Looking to the future the Board is conscious that there is a balance between effective action and resources but the disregard for the law and/or 'inappropriate behaviour' that exists within some elements of our community needs to be address for the good of the majority. Therefore the re-constituted Compliance and Enforcement Board looks forward to working with officers to further develop the effectiveness of compliance and enforcement across the Borough."

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