

**Bolsover District Council**

**Executive**

**10<sup>th</sup> September 2018**

**Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District.**

**Report of the Chair of Healthy, Safe, Clean & Green Communities Scrutiny Committee**

This report is public.

**Purpose of the Report**

- To present to Executive the completed report for the recent Scrutiny Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District.

**1. Report Details**

1.1 The Healthy, Safe, Clean & Green Communities Scrutiny Committee agreed to undertake a review of Enforcement action as part of the 2017/18 work plan following consideration of a range of topics suggested at the Annual Scrutiny Conference. The review was rolled forward in to the 2018/19 municipal year to allow sufficient time to consider all the evidence gathered.

1.2 The aims of the review were:

- To ensure that the Council's Enforcement Policy is being used to deal with and deter fly tipping, littering and dog fouling in the District of Bolsover and to address the perceptions of Councillors and the public.
- To address the concerns and perceptions of Elected Members and consider the Council's existing approaches. To identify any further actions that should be taken in order to punish those responsible, reduce the number of incidents and keep the environment clean having regard to best practice, statutory guidance and policy.

1.3 Members' objectives were:

- To understand the actual levels of litter, fly tipping and dog fouling and the difference in perceptions and why.
- If there is a difference between actual levels and members' perceptions, to find a way to bridge the gap.
- To understand current approaches and actions by Environmental Health, Streetscene and Community Safety (CAN Rangers).
- To understand the range of enforcement actions available.

- To understand the enforcement legal tests, e.g. evidential test and public interest test.
- To understand the Council's Enforcement Policy and legal interpretation.
- To understand current practices and how closely the policy is adhered to.
- To consider the current constraints on the authority regarding enforcement and taking enforcement action
- To understand competency levels required for enforcement officers.
- To understand the current level of staff with delegated authority to undertake enforcement and its effectiveness in undertaking such.
- To understand the required staffing levels and any human resource implications.

1.4 The key issues considered were:

- Untidy land, gardens and buildings (including private owned);
- Litter;
- Fly tipping;
- Dog fouling;
- Customer expectations;
- Councillors expectations;
- Options for working with other councils nearby to increase enforcement activities.

1.5 Within its Corporate Plan 2015-2019, Bolsover District Council under the aim of Transforming Our Organisation has the following aims, priorities and targets:

Aim: Supporting Our Communities to be Healthier, Safer, Cleaner and Greener

Priorities:

- Ensuring a high standard of environmental maintenance and cleanliness
- Developing attractive neighbourhoods

Targets:

- H 10 - Sustain standards of litter cleanliness to ensure 96% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS).
- H 11 - Sustain standards of dog fouling cleanliness to ensure 98% of streets each year meet an acceptable level as assessed by Local Environment Quality Surveys (LEQS).
- H 12 - Annually undertake 10 local environmental enforcement and educational initiatives in targeted areas to deal with dog fouling, littering or fly tipping.

1.6 The Committee used a range of methods to gather evidence:

- verbal evidence and questioning with key officers;
- document analysis to understand the legislative and policy context
- questionnaires to elected Members of Bolsover District as well as Derbyshire County Council and Parish Councils in the District;
- benchmarking exercise to establish best practice in local authorities;
- site visits;

- Bolsover District Council's performance management information within PERFORM.

## **2. Conclusions and Reasons for Recommendation**

- 2.1 The Committee have put together 18 recommendations which will hopefully assist the Council in further improving our approach to environmental despoilment and enforcement.
- 2.2 A further recommendation was discounted from the final report following additional clarification from service managers. In addition, one recommendation was reworded following receipt of Officer advice.
- 2.3 The key issues arising from the review are as follows:
- levels of staffing resource and the subsequent impact on service delivery, effective use of resources and enforcement activity;
  - communication and awareness of enforcement activity, both internal and external;
  - communication on how to contact the Council and use of online reporting;
  - potential reputational risk, where the Authority area is seen to have high levels of littering/fly-tipping and poor street cleanliness standards;
  - ensuring our policies are compliant and support our delivery of enforcement activity; and
  - ensuring efficient and effective use of the enforcement powers available to the Authority, by all staff with designated authority.
- 2.4 Members appreciate that a range of approaches have been taken by staff to both prevention and enforcement. Where possible staff have endeavoured to maintain this despite staff vacancies, but this has not always been possible. Members hope that the recent situation will reinforce that effective resource levels (both staff and non-staff) are key to good quality service delivery even in times of austerity. It is hoped that the recommendations set out in this review report will help further embed the refreshed approach to enforcement that is being taken now the Environmental Enforcement Team is fully staffed.

## **3. Consultation and Equality Impact**

- 3.1 All Scrutiny Committees are committed to equality and diversity in undertaking their statutory responsibilities and ensure equalities are considered as part of all Reviews. The selection criteria when submitting a topic, specifically asks members to identify where the topic suggested affects particular population groups or geographies.
- 3.2 As part of the review process there has been a survey of BDC Members to ascertain their views on a range of aspects of the current approach to street cleanliness and environmental enforcement. In addition, Members have completed a telephone survey of neighbouring authorities in order to benchmark certain aspects of service delivery.
- 3.3 The Council has a statutory duty under s.149 Equality Act 2010 to have due regard to the need to advance equality of opportunity and to eliminate discrimination.

- 3.4 Within the process of the review, the Committee has taken into account the impact of equalities. Where enforcement action is taken against individuals who are vulnerable the Council's policies for Safeguarding Adults and VARM will apply. Where action is taken against an individual with specific communication needs (for example, large print or British Sign Language) the Council's Policy for Equality & Diversity in Service Delivery may apply.

#### **4. Alternative Options and Reasons for Rejection**

- 4.1 Executive could choose not to endorse the recommendations of the review, where they feel the course of action recommended is beyond the delivery capacity of the Authority.
- 4.2 Any recommendation considered outside of the current Budget and Policy Framework should be submitted to Council for consideration (section 4.5.10 of BDC Constitution).

#### **5. Implications**

##### **5.1 Finance and Risk Implications**

- 5.1.1 Members are concerned that there is potential reputational risk, where the Authority area is seen to have high levels of littering/fly-tipping and poor street cleanliness standards. Members conclude that the recommendations proposed will further improve our approach to environmental despoilment and enforcement.
- 5.1.2 Members are aware that Recommendation HSCGC17/18 1.4 could require an additional review of budgets to ascertain the long-term funding for the current temporary staffing arrangements. Should financial implications to the creation of a permanent post be established, this will require a further report to Executive.
- 5.1.3 Members acknowledge that Recommendation HSCGC17/18 1.6, may require additional resources should activity need to be increased. Members recommend that an additional report/request for resources be submitted, if and when required.
- 5.1.4 Members acknowledge that Recommendations HSCGC17/18 1.8, 1.9 and 1.11, will require creation of new and/or additional resources and publicity material, but this should be contained within existing budgets as part of a refresh of the current approach taken by the services.

##### **5.2 Legal Implications including Data Protection**

- 5.2.1 In carrying out scrutiny reviews the Council is exercising its scrutiny powers as laid out in s.21 of the Local Government Act 2000, regulations under section 32 of the Local Government Act 2000 and subsequent legislation which added to/amended these powers e.g. the Local Government and Public Involvement in Health Act 2007.
- 5.2.2 The Council has a statutory duty under s.149 Equality Act 2010 to have due regard to the need to advance equality of opportunity and to eliminate discrimination.

### 5.3 Human Resources Implications

- 5.3.1 Recommendation HSCGC17/18 1.4 suggests that Executive/SAMT consider the current staffing resource and training within the legal team to ensure existing expertise is maintained, thereby enabling the Authority to have sufficient capacity to move forward with its approach to enforcement.
- 5.3.2 Members acknowledge that following further investigation, Recommendation HSCGC17/18 1.13 may require an additional report from the service should additional staffing resource be deemed necessary.
- 5.3.3 Members acknowledge that, Recommendation HSCGC17/18 1.16 may require an additional report from the service should a change to staffing be required.

### 6. Recommendations

- 6.1 That the Executive considers and approves the recommendations of the review outlined in section 2 of the attached report, and submits their response to Committee.

### 7. Decision Information

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|---|---|
| <p><b>Is the decision a Key Decision?</b><br/> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br/> <i>BDC: Revenue - £75,000</i> <input type="checkbox"/><br/> <i>Capital - £150,000</i> <input type="checkbox"/><br/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/><br/> <i>Capital - £250,000</i> <input type="checkbox"/><br/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p> | No  |
| <p><b>Is the decision subject to Call-In?</b><br/> (Only Key Decisions are subject to Call-In)</p>  | No  |
| <p><b>Has the relevant Portfolio Holder been informed</b></p>   | Yes   |
| <p><b>District Wards Affected</b></p>   | All   |
| <p><b>Links to Corporate Plan priorities or Policy Framework</b></p>  | <p>Aim: Supporting Our Communities to be Healthier, Safer, Cleaner and Greener</p> <p>Priorities:</p> <ul style="list-style-type: none"> <li>• Ensuring a high standard of environmental maintenance and cleanliness</li> <li>• Developing attractive neighbourhoods</li> </ul> |

8. **Document Information**

| Appendix No  | Title   |
|--|---|
| 5.1  | Review of Enforcement action undertaken by Bolsover District Council to improve the quality of the environment across the District. |
| <p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>                                  |   |
| <p>See Appendix 4 within the attached document. Documents stored in:<br/>S:\Governance and Monitoring\Scrutiny BDC\RES\Healthy, Safe Clean and Green Communities Scrutiny Communities\2017-18\Environmental Enforcement\Report</p> <p>Please contact Scrutiny &amp; Elections Officer where further information is required.</p> |   |
| Report Author  | Contact Number  |
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Report Reference –