

Communities Scrutiny Commission

10th October 2019



Report of: Nick Carter, Head of Regulatory Services

Title: Approach to Enforcement – Neighbourhood Enforcement Team

Ward: City wide

Officer Presenting Report: Nick Carter, Lindsay Hay

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Recommendation: For Scrutiny to feed back on the approach to enforcement as set out in the report.

The significant issues in the report are:

Enforcement is about balancing resources between achieving effective interventions and finding longer term solutions that encourage greater compliance. The report sets out the current enforcement approach and is aimed at generating discussion and feedback to help with future planning.



1. Summary

The report sets out the current approach to enforcement and some of the drivers that prioritise how enforcement resources are deployed.

2. Context

- **Local context**

- Front line enforcement for environmental crime and other regulatory areas is delivered through the Neighbourhood Enforcement Team based in Regulatory Services, Growth and Regeneration. There are currently fifteen officers in the team and they cover environmental crime (waste management, fly tipping, flyposting and graffiti), licensing, noise control, animal welfare and highways enforcement (which includes encampments as well as licensing of scaffolding, skips, drop kerbs, obstructions and abandoned vehicles).
- At Cabinet on 3rd September the Council's overarching enforcement policy was approved. The policy sets out the broad approach to enforcement taken by the council and was a refresh of an earlier policy. Increasingly when enforcement matters progress to court there are challenges around policy and process rather than evidence, therefore it is essential that the Council has a clear and transparent framework for delivering enforcement activity. It should be emphasised that the policy provides a general framework setting out our standards for enforcement and what those they regulate can expect. It is based on principles set out in the Legislative and Regulatory Reform Act 2006 and focuses on the need for transparency, proportionality and that regulatory activities should only be targeted at cases where action is needed. The policy does not set out the detail of how enforcement actions are delivered and the range of options available to solve a particular issue. In many cases enforcement is just one, often short term, approach to help resolve an issue and will normally be part of a wider more sustainable solution .

- **National context**

- As a regulatory body we need to act within the legislative powers at our disposal, whether that is Government statutory policy that we are required to follow or regulations that we are authorised to enforce. The policy landscape set by central Government is complex across the various regulatory strands. In some areas our ambitions may be restricted by government policy or availability of resources or sometimes by both. A couple of examples. The recent revisions to legislation governing the issuing of Fixed Penalty Notices (FPNs) with regard to domestic waste only apply to fly tipped waste, there are no available powers to issue FPNs for poorly presented domestic waste in the same way that powers exist for dealing with poorly presented commercial waste. This legislative gap hampers our efforts to improve the street scene in the city.
- The current inspection regime for enforcing food hygiene presents significant difficulties for Bristol and other LAs. Unlike other regulatory regimes, where a potential operator is required to go through an application process, before they can make use of their permission, the food inspection regime has a basic registration process which is underpinned by a rigorous inspection regime based on risk assessments set by the Food

Standards Agency (FSA). This places great pressures on the regulator and creates a position where the regulator is often playing catch up. The FSA recognise the weakness of this system and are planning reforms however this work has largely been held up because of BREXIT preparations.

- Resourcing can be an issue, particularly with regimes where fees (which are commonly designed to cover the cost of enforcement) are set by Government. For example the current charge for a Temporary Event Notice (TEN) is £21. This Licensing permission allows small events to provide regulated activity for up to 500 people. Typically these are one off events or are extensions to existing licensed premises permissions. The associated process involves notification to various bodies, arranging a Licensing Hearing where objections are received and enforcement. The fee is inadequate and the Chair of the Licensing Committee has recently raised the issue with the LGA. So far this year we have dealt with 1,500 TENS
 - It would be easy to say that we could do more enforcement if we had more resources however most enforcement interventions will only be a sticking plaster until longer term more sustainable solutions can be found and therefore we need to be more creative when working with partners to maximise our opportunities to find solutions that are not so resource intensive.
- **Model of enforcement**
 - The Neighbourhood Enforcement Team (NET) model was implemented three years ago and came about by drawing together into one team small numbers of enforcement officers from other regulatory teams. This approach has become more common with Local Authorities particularly as resources in separate regulatory teams have depleted. The ambition is to have a multi skilled team of officers who can focus on generally less complex enforcement activity. More specialised complex enforcement work generally remains in separate regulatory teams e.g. planning, health & safety, trading standards and food hygiene. The introduction of a contractor to take on the issuing of FPNs for environmental offences has added to the team's resilience. 3GS were awarded the contract in February 2019 and are working with the NET to find the most effective arrangement to deliver the Council's ambitions in this area.
 - The NET takes primarily a responsive approach to enforcement and require complainants to provide actionable information or evidence which can be investigated further. Appendix A summarises activity undertaken by the team up until the end of August. Appendix B sets out the basic approach taken by the team when investigating complaints.
 - The capacity for undertaking proactive enforcement is limited. The officers supporting the "Clean Streets" project demonstrates the positives of implementing a proactive approach. With reduced resources a greater focus is placed on enforcement projects targeting particular areas of non-compliance. Other proactive activity includes vehicle dwelling encampments inspections (from September 2019), waste carrier checks (with the police four operations a year) and commercial waste operations (since November 2018).

- **Partnership working and Resources**

- Enforcement can only be a short term fix however the NET provide a reactive service driven by complaints received from the public. This creates an impact on the resources available to look at longer term solutions.
- The recent realignment of the NET within Regulatory Services will give an opportunity to look at how we can work with other regulatory teams through a fresh lens. There is already good practice established, particularly in the licensing field, with monthly tasking meetings involving the Police, Avon Fire and Rescue and other council teams (planning, health & safety, pollution control) to discuss problematic premises and find solutions using the most effective powers. This arrangement will be refreshed this year and consideration given to extending its reach to other regulatory areas. There is a great wealth of powers available to the Council and its statutory partners and the challenge is to find the right ones to use to solve a problem. In particular partnership working with other internal and external teams allows us to exchange information and focus resources on the worst offenders.
- Closer working arrangements are also being developed between the Bristol City Centre BID team, who already fund street marshals, Bristol Waste Company (BWC) and council teams under a new Place Management monthly meeting where again a collective approach will be established to find solutions. A strong relationship with BWC is critical and the roll out of the Clean Streets project, which will pool BCC and BWC resources to target a range of environmental issues in localities across the city, will provide a foundation to encourage communities to find more sustainable ways of improving the street scene in their neighbourhoods.
- Educate, Engage and Enforce is the preferred method of tackling community issues. Following cuts across council services the ability for the council as whole to educate and engage has significantly reduced which has resulted in increased demand for enforcement. This places stress on the service across all enforcement areas

- **Priorities and Performance**

- Much of the longer term work designed to improve compliance takes place outside of the NET's day to day business. For example developing new working arrangements with Bristol Waste, exploring new approaches for dealing with commercial waste and the review of the licensing process all help to ensure greater compliance and reduce the need for enforcement. Where successful enforcement interventions take place the service uses social media and other opportunities to publicise the actions.

3. Policy

The approach to enforcement is set out in the Enforcement Policy adopted by Cabinet on 3rd

September. In addition to this overarching policy there are in some service specific policies for particular functions.

4. Consultation

a) Internal

Not applicable

b) External

Not applicable

5. Public Sector Equality Duties

- 5a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.
- 5b) The new enforcement policy was subject to an Equalities relevance check. This scrutiny item is for discussion at this stage

Appendices: None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: None