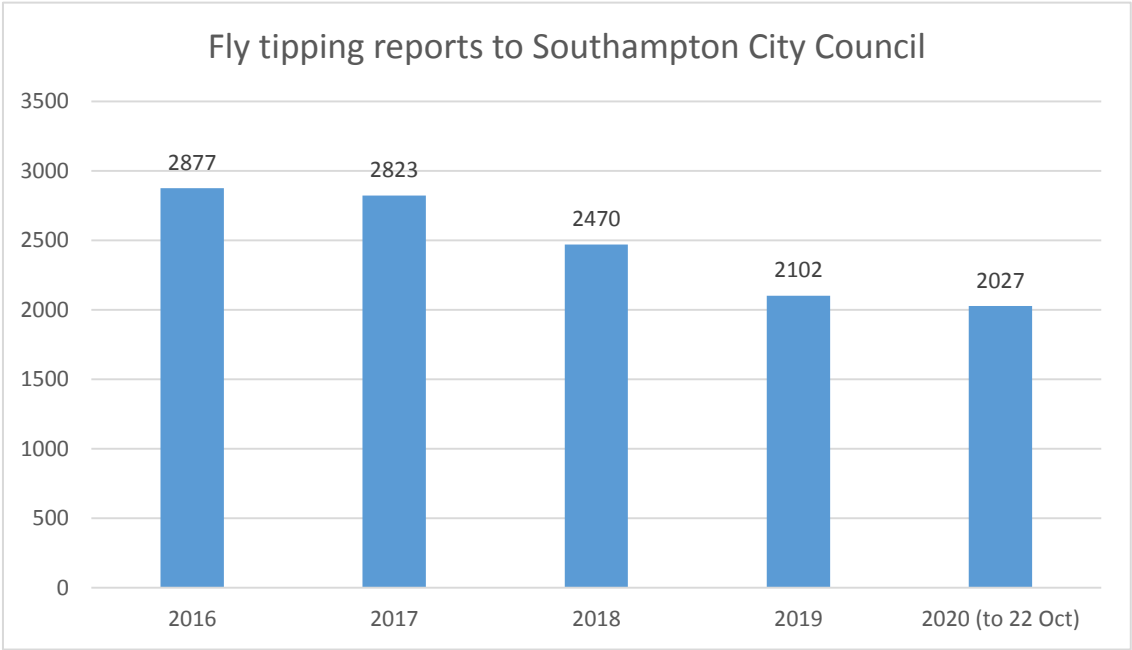


DECISION-MAKER:	OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE
SUBJECT:	PROVISION OF AN ENVIRONMENT ENFORCEMENT SERVICE
DATE OF DECISION:	12 NOVEMBER 2020
REPORT OF:	CABINET MEMBER FOR STRONGER COMMUNITIES

<u>CONTACT DETAILS</u>				
Executive Director	Title	Executive Director – Community, Culture and Homes		
	Name:	Mary D’Arcy	Tel:	023 8083 4611
	E-mail	mary.d’arcy@southampton.gov.uk		
Author:	Title	Service Manager – Environmental Health, Trading Standards and Community Safety		
	Name:	Gavin Derrick	Tel:	023 8083 7537
	E-mail	gavin.derrick@southampton.gov.uk		

STATEMENT OF CONFIDENTIALITY		
Not Applicable		
BRIEF SUMMARY		
This paper provides an overview of the environmental enforcement services introduced in 2020 to tackle littering and fly-tipping in Southampton.		
RECOMMENDATIONS:		
	(i)	That the Committee are asked to note the contents of this report.
REASONS FOR REPORT RECOMMENDATIONS		
1.	<p>Southampton City Council has developed the capability to take enforcement action to deter fly tipping and littering offences in Southampton through the creation of two new environmental protection officer posts to tackle fly tipping and the establishment of a partnership with East Hampshire Commercial Services to deal with littering offences.</p> <p>Members are asked to note activity during the initial period of operation of the Council’s environmental enforcement services.</p>	
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
2.	Not applicable – The consumer protection and environmental service required the additional resource provided through the two new posts and the partnership arrangement with East Hampshire Commercial Services (EHCS) to provide the capacity for enforcement activity. EHCS provide a specialist enforcement service to tackle littering through the use of fixed penalties.	
DETAIL (Including consultation carried out)		

3.	Environmental crimes, such as littering and fly-tipping can have a detrimental impact on quality of life for the city's residents and in some circumstance can present economic and public health risks.
4.	Littering and fly-tipping are criminal offences and there are a range of sanctions available to local authorities, including the use of fixed penalties as an alternative to prosecution.
5.	Previously enforcement activity was carried by the Council's City Patrol Service, which comprised four uniformed officers with CCTV equipped vehicles who investigated a range of environmental crimes, including littering, fly tipping, dog fouling, graffiti, fly posting etc.
6.	The City Patrol Service was disbanded in April 2015 and in the years that followed no Council service was focussed on taking enforcement action in response to littering and fly tipping complaints. The environmental health service did investigate fly tipping complaints and took enforcement action (including prosecution) but the resources available for this activity were limited.
7.	In 2020, the Council's capability for tackling littering and fly tipping has increased significantly with the creation of two new environmental protection officer posts (focussed on fly tipping enforcement activity) and the introduction of a partnership with East Hampshire Commercial Services (EHCS) to provide uniformed officers to tackle littering offences.
	Environmental Protection Officers – fly tipping enforcement
8.	The Council's two new environmental protection officers started on 21 September 2020. The officers are focussed on investigating fly tipping within the city and pursuing enforcement action against offenders.
9.	The officers both have backgrounds in investigation and law enforcement and have 'hit the ground running', with a number of active investigations in progress.
10.	Partnership working is key to successful outcomes (particularly where an offender fly tips in a different local authority's area) and the officers are building working relationships with the neighbourhood police teams in the city; the enforcement officers working for neighbouring local authorities (e.g. Test Valley, Eastleigh and New Forest); the Environment Agency and other Southampton City Council teams such as City Services and our CCTV operator.
11.	The officers actively participate in the Hampshire Fly Tipping Partnership, which provides a network for local authority enforcement officers and other stakeholders to share intelligence and best practice across the county.
12.	The officers have already worked with in partnership with Test Valley Borough Council on the prosecution of a Southampton resident who was convicted on 21 October at Southampton Magistrates Court and received a fine and costs of £2,679.50.
13.	The officers are engaging with residents and businesses who are identified as failing to comply with the duty of care when disposing of waste material, initially through the use of written warnings. The officers are looking to develop the use of all enforcement tools available within the legislation, including the use of fixed penalties when appropriate.
14.	Prosecuting fly tipping offenders can be challenging, particularly prolific offenders who are used to the criminal justice system and investigation can be

	time consuming but already the officers are building cases and it is anticipated that legal proceedings will follow in the coming months.																
15.	The demand on the service is high and the officers are prioritising enforcement activity by targeting repeat offenders, who are often operating as a 'waste disposal' business and focussing on fly tipping 'hop spots'.																
16.	<p>Southampton residents can report fly tipping incidents via the Council's website (the preferred reporting route) or via the contact centre. Fly tipping is on the increase across the country and has been subject to national media attention, although the number of fly tipping incidents reported to Southampton City Council is not reflecting the national trend. The graph below shows the number of reported fly tipping incidents received by Southampton City Council over the past five years:</p>  <table border="1"> <caption>Fly tipping reports to Southampton City Council</caption> <thead> <tr> <th>Year</th> <th>Number of incidents</th> </tr> </thead> <tbody> <tr> <td>2016</td> <td>2877</td> </tr> <tr> <td>2017</td> <td>2823</td> </tr> <tr> <td>2018</td> <td>2470</td> </tr> <tr> <td>2019</td> <td>2102</td> </tr> <tr> <td>2020 (to 22 Oct)</td> <td>2027</td> </tr> </tbody> </table>	Year	Number of incidents	2016	2877	2017	2823	2018	2470	2019	2102	2020 (to 22 Oct)	2027				
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17.	<p>The number of reported incidents received by the Council during the six month period April – September 2020 is summarised in the table below:</p> <table border="1"> <thead> <tr> <th>Month (2020)</th><th>Reported fly tipping incidents</th></tr> </thead> <tbody> <tr> <td>April</td><td>181</td></tr> <tr> <td>May</td><td>151</td></tr> <tr> <td>June</td><td>241</td></tr> <tr> <td>July</td><td>281</td></tr> <tr> <td>August</td><td>223</td></tr> <tr> <td>September</td><td>274</td></tr> <tr> <td>Total</td><td>1351</td></tr> </tbody> </table>	Month (2020)	Reported fly tipping incidents	April	181	May	151	June	241	July	281	August	223	September	274	Total	1351
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April	181																
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Total	1351																
18.	It is not possible to investigate every reported fly tipping incident and often there will be no lines of enquiry to pursue (for example a mattress may appear on a																

	pavement, with no evidence to identify the source and no witness to provide any information to support an investigation). In these situations prompt removal is the most appropriate cause of action, but may not satisfy the person reporting the incident as there is a strong desire for punitive action by the Council which may not be possible without robust evidence identifying an offender. Publication of successful enforcement action by the environmental protection officers will help to provide a deterrent over the coming months.														
	Littering Enforcement - East Hampshire Commercial Services Limited														
19.	The Council has entered a partnership with East Hampshire Commercial Services Limited (EHCS) to provide littering enforcement within Southampton. The coronavirus restrictions delayed the launch of this partnership, with enforcement activity starting on 23 June 2020.														
20.	EHCS provide uniformed officers who patrol open spaces in the city to deter littering offences. The officers are authorised to issue fixed penalties to individuals who are observed dropping litter in an open public space. The officers operate a 'zero tolerance' approach, so that a person observed dropping litter will be approached, their name and address details will be obtained, and a fixed penalty notice will be issued.														
21.	The fixed penalty for dropping litter is £75, with a reduction for payment within ten days to £55.														
22.	EHCS are paid £55 for each fixed penalty which is issued. Offenders can pay the fixed penalty through the Southampton City Council website (the preferred method of payment) or by telephone via the contact centre. Some fixed penalties are paid by cheque.														
23.	EHCS are responsible for follow up activity including the pursuit of non-payment and the preparation of legal proceedings for those offenders who do not pay the fixed penalty.														
24.	<p>Enforcement activity has been higher than initially anticipated and the table below shows the fixed penalties issued during the first months of operation:</p> <table border="1"> <thead> <tr> <th>Month</th><th>Fixed penalties issued</th></tr> </thead> <tbody> <tr> <td>June (part month from 23/06/2020)</td><td>30</td></tr> <tr> <td>July</td><td>302</td></tr> <tr> <td>August</td><td>673</td></tr> <tr> <td>September</td><td>716</td></tr> <tr> <td>October (part month up to 19/10/2020)</td><td>423</td></tr> <tr> <td>Total</td><td>2144</td></tr> </tbody> </table>	Month	Fixed penalties issued	June (part month from 23/06/2020)	30	July	302	August	673	September	716	October (part month up to 19/10/2020)	423	Total	2144
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Total	2144														
25.	Enforcement activity initially focussed on the city centre and the commercial districts. Officers have also been directed to areas which have been subject to complaints about littering. The table below shows the geographical distribution														

	of fixed penalties issued across the city:																		
	<table><tr><th>Location</th><th>Fixed penalties issued</th></tr><tr><td>City Centre</td><td>1745</td></tr><tr><td>Shirley</td><td>250</td></tr><tr><td>Bitterne</td><td>56</td></tr><tr><td>Portswood</td><td>49</td></tr><tr><td>Woolston</td><td>31</td></tr><tr><td>Millbrook / Redbridge</td><td>10</td></tr><tr><td>Other</td><td>3</td></tr><tr><td>Total</td><td>2144</td></tr></table>	Location	Fixed penalties issued	City Centre	1745	Shirley	250	Bitterne	56	Portswood	49	Woolston	31	Millbrook / Redbridge	10	Other	3	Total	2144
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Total	2144																		
26.	<p>Analysis of fixed penalties which are paid shows that approximately 90% are paid within 10 days (at £55) with almost 10% of payments made after the ten days (at £75) – see table below:</p> <table><tr><th></th><th>Fixed penalties paid</th><th>Percentage</th></tr><tr><td>Payment within ten days - £55</td><td>1306</td><td>90.6%</td></tr><tr><td>Payment after ten days - £75</td><td>136</td><td>9.4%</td></tr><tr><td>Total</td><td>1442</td><td>100%</td></tr></table> <p>In the period 23 June 2020 – 19 October 2020, a total of 2,144 fixed penalties have been issued.</p>		Fixed penalties paid	Percentage	Payment within ten days - £55	1306	90.6%	Payment after ten days - £75	136	9.4%	Total	1442	100%						
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Total	1442	100%																	
27.	<p>Although the enforcement activity operates on the basis of ‘zero tolerance’ of littering, there are circumstances where the enforcement officers approach a suspected offender but do not issue a fixed penalty. This may be due to the individual being identified as under 18 years of age; or vulnerable; or a non-UK resident. There are 33 recorded approaches which did not lead to a fixed penalty being issued for these reasons.</p>																		
28.	<p>There are circumstances where a fixed penalty is issued, but subsequently withdrawn or not pursued due to:</p> <ul style="list-style-type: none">- false information being provided by the offender- medical information being provided as mitigation by the offender- evidence being provided that the offender is under 18 years old- evidence being provided that the offender is vulnerable- the offender no longer residing in the UK.																		
29.	<p>In the period 23 June 2020 – 19 October 2020, a total of 130 fixed penalties were withdrawn or not pursued for the reasons above. In case the offender is sent written confirmation that the fixed penalty has either been withdrawn or will not be pursued. This equates to 5.7% of fixed penalties which are issued being withdrawn or not pursued. EHCS are not paid for fixed penalties which are withdrawn or not pursued.</p>																		

30.	Fixed penalties are not always paid. If an offender does not pay the penalty, reminder letters are sent by EHCS warning that legal proceedings will commence if the penalty remains unpaid. EHCS will then prepare legal proceedings. The first batch of prosecutions were heard at Southampton's Magistrates' Court in September 2020. Five cases were set before the Court and all were proven in absentia. Each offender was fine £220 for littering, together with a cost award of £85 and a £34 victim surcharge, totalling £339.										
31.	A further 30 cases were heard by the Magistrates on 27 October 2020 and proven in absence. Again, offenders received a Court fine of £220 and were ordered to pay £168.75 costs together with a £34 victim surcharge. The Court summons led to two offenders paying the fixed penalty to prevent the matter being dealt with at Court.										
32.	A further 40 unpaid fixed penalties are to be considered by the Court on 1 December 2020, followed by 80 cases listed on 8 December 2020 and another 80 cases to be heard on 5 January 2021.										
33.	<p>The number of unpaid fixed penalties issued during the period 23 June – 19 October 2020 totals 700. This means that two thirds of fixed penalties are paid – see below. Some of the unpaid fixed penalties are withdrawn or not pursued. Fixed penalties which remain unpaid are pursued through the Court (see above).</p> <table><tr><td>Total fixed penalties issued</td><td>2144</td><td>Percentage</td></tr><tr><td>Paid</td><td>1444</td><td>67.4%</td></tr><tr><td>Unpaid</td><td>700</td><td>32.6%</td></tr></table>	Total fixed penalties issued	2144	Percentage	Paid	1444	67.4%	Unpaid	700	32.6%	
Total fixed penalties issued	2144	Percentage									
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34.	<p>There is a lag period between the fixed penalty being issued and the payment being received. Some offenders will make late payment, often in response to a final reminder letter notifying imminent prosecution or the receipt of the Court pack. The table below reflects this pattern, with a higher proportion of payments being received in the months at the start of the enforcement activity.</p> <table><tr><th>Month fixed penalty issued</th><th>Percentage paid</th></tr><tr><td>June</td><td>83%</td></tr><tr><td>July</td><td>76%</td></tr><tr><td>August</td><td>79%</td></tr><tr><td>September</td><td>69%</td></tr></table>	Month fixed penalty issued	Percentage paid	June	83%	July	76%	August	79%	September	69%
Month fixed penalty issued	Percentage paid										
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35.	Unpaid fixed penalties can have cost implications for Southampton City Council, as EHCS are paid £55 per fixed penalty issued (less those which are withdrawn) but the Council may not receive the income to offset this payment to EHCS if the offender does not pay the fixed penalty. This gap is partially offset by the late payments, where the offender pays the Council £75, but EHCS are still paid £55 for issuing the fixed penalty. As the contract continues officers will keep this under review.										
36.	Active communications are prepared to publicise the anticipated successful outcome at Court for those offenders who chose to not pay the fixed penalty and were prosecuted. Publicising these convictions, including the penalty imposed by the Court, should encourage the payment of fixed penalties by other recipients.										
37.	In the period 23 June – 19 October 2020, EHCS have provided 200 officer days of enforcement activity in Southampton (i.e. 2 officers patrolling for one										

	day is calculated as 2 officer days). On average, each officer issues approximately 10 fixed penalties per day (9.9 fixed penalties per officer day).
38.	This is a relatively short period of time and of course will remain under review to ensure that the contract and outcomes are both cost effective and support the desired behaviour change across the city.
39.	The performance by EHCS is reviewed by the service manager for environmental health, trading standards and community safety who meets with the EHCS account manager every month.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
40.	The unpaid fixed penalties have financial implications for Southampton City Council due to EHCS receiving the full £55 due for each fixed penalty issued, with Southampton City Council receiving all payments made by offenders paying a fixed penalty. An unpaid fixed penalty creates a deficit for Southampton City Council which is only partially offset by the additional payments made when a fixed penalty is paid late at £75.
41.	<p>The deficit accrued during the initial four months of operation is approximately £28,000. This is over and above the budget assumption on unpaid fines, but is not a final figure as this will reduce as late payments are made and prosecutions are concluded. Options will be reviewed in the second quarter of the arrangement to ensure this is reduced as follows;</p> <ul style="list-style-type: none"> • Raising the amount of each fixed penalty to £80 (or £65 for payment within ten days). EHCS will still receive £55 per fixed penalty, with the surplus offsetting the unpaid fixed penalties. This level is consistent with fixed penalties issued by other local authorities; • Reviewing the operating model, so that Southampton City Council pays EHCS a daily rate for the services of the enforcement officer and retains the payments made by individuals issued with a fixed penalty.
42.	It should be noted that the arrangement with EHCS can be terminated with three months written notice should the costs to the Council significantly outweigh the benefits going forward.
<u>Property/Other</u>	
43.	Not applicable
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
44.	Part II of the Environmental Protection Act 1990 provides local authorities with powers to take enforcement action in response to fly tipping and littering offences.
<u>Other Legal Implications:</u>	
45.	Southampton City Council has established a deed of delegation allowing East Hampshire Commercial Services to issue fixed penalties for littering within the city boundary. The arrangement can be terminated by either party with three months written notice of termination.

	The deed of delegation has been established in accordance with the relevant provisions of the Local Government Act 1972, the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2012.
RISK MANAGEMENT IMPLICATIONS	
46.	The deficit created by unpaid fixed penalties requires revision to the operating model to be agreed with East Hampshire Commercial Services to ensure any financial risks are controlled.
POLICY FRAMEWORK IMPLICATIONS	
47.	Not applicable.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	All Wards
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	None

Documents In Members' Rooms

1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out?	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out?	No
Other Background Documents	
Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	Not applicable