

Report Title:	Support before Enforcement - a strategic approach and policy enhancements
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Cllr Grey, Lead Member for Environmental Services (including Parking & Flooding) Cllr Bicknell, Lead Member for Windsor
Meeting and Date:	Cabinet - 27 September 2018
Responsible Officer(s):	Andy Jeffs, Executive Director David Scott, Head of Communities, Enforcement & Partnerships
Wards affected:	All

www.rbwm.gov.uk



REPORT SUMMARY

1. The Royal Borough is committed to supporting vulnerable individuals who need assistance to secure positive outcomes. The work in sits alongside the Boroughs commitment to provide spaces, including towns, streets and open spaces for all residents. Consequently in Mach 2018 Cabinet approved the increase in Community Warden Team.
2. This report set out mechanisms by which Community Wardens:
 - Can problem-solve issues that arise in our town centres and wider areas to support vulnerable individuals and the wider users of the town centres. The principles informing the approach is described as 'Support before Enforcement'. This principle will safeguard vulnerable individuals and communities to ensure enforcement is always a last option, and thereby ensuring that if there are wider support needs, these are considered first.
 - Are equipped with the tools needed, to adopt a support first approach and one where enforcement is always a last option for the Royal Borough to tackle Anti-Social Behaviour.

1 DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet notes the report, and:

- i. **Approves the principles of adopting the strategic approach which is based upon the Support before Enforcement, to provide vulnerable individuals and the wider community with the appropriate balance to support their needs.**
- ii. **Delegates authority to the Executive Director, in consultation with the Lead Member for Environmental Services (including Parking & Flooding) to implement a 'Support before Enforcement' strategy, to tackle Anti-Social Behaviour issues in partnership with stakeholders including Thames Valley Police and Third Sector support organisations.**

- iii. **Approves the use of enforcement powers; including the use of standardised £100 civil and fixed penalty notices charge for offences detrimental to the community (such as a breach of a PSPO, CPN, littering, fly-posting or dog fouling), a £400 notice for fly tipping and a £300 notice for improper disposal of waste.**

2 REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Background

- 2.1 The Royal Borough's town centres are community assets that attract millions of visitors, during the day and evening - Night Time Economy (NTE). These locations can from time to time attract a small minority who's antisocial behaviour (ASB) impacts the enjoyment of the majority.
- 2.2 Throughout 2018 there have been over 75 reports of ASB in Windsor, which includes repeated problems at differing degrees, for instance: street drinking, passive and aggressive begging, graffiti, public urination and drug use, street drinkers, cycling on the pavement. Incidents of knife crime reported to the Police in Windsor in 2018 were all preceded by ASB by the suspects.
- 2.3 Cabinet approved the creation of a new team of Community Wardens in March 2018, to increase the overall capacity of the warden team to deal with and address the increasing levels of ASB being experienced and reported by residents, businesses and visitors to our town centres. This new team will operate in a problem-solving capacity and will be devising targeted operations to tackle emerging issues. Recruitment for the remaining cohort concludes this month (September 2018), together with a MEAM (Making Every Adult Matter) Coordinator to focus on coordinating the support requirements of vulnerable individuals who may be rough sleeping in the town centres.
- 2.4 In conjunction with the appointment of the MEAM Coordinator an 'Alternative Giving' mechanism is being investigated, in partnership with key stakeholders, to understand how donations from the public and local businesses could be channelled into appropriate support for the vulnerable, and reduce or avoid begging and ensure donations are used to support chaotic lifestyles and substance abuse habits.
- 2.5 Following successful completion of the Community Safety Accreditation Scheme (CSAS) training by the existing warden cohort, authorisation is now being sought from the Chief Constable of Thames Valley Police, for the Royal Borough to utilise appropriate police powers to tackle lower level ASB, such as cycling on pavements, and the ability to request details of those believed to be committing an offence, to work in conjunction with other specific legislative powers to tackle littering from vehicles and other forms of ASB.
- 2.6 To ensure that Community Protection Teams are able to tackle ASB, evidence will continue to be collected to support implementation of any additional measures identified to complement the CSAS powers. This approach will provide the opportunity to
 - Adopt new legal powers such as those to deal with littering from vehicles.
 - Consider community concerns in partnership with Thames Valley Police.
 - Update the powers that Community Wardens are authorised to use.

- Rationalise the penalty levels for fixed penalty notices (FPNs), ensuring that they remain an effective deterrent.

'Support before Enforcement' Strategy

- 2.7 The strategic approach to identify and provide appropriate support for the vulnerable, will ensure that support precedes any enforcement, which would always be risk assessed, in terms of any complex needs of the individuals involved. In this sense enforcement action will only be taken where two tests are met; namely that anti-social behaviour is persistently witnessed and where support to a vulnerable individual has either been refused or exhausted, such that any enforcement for vulnerable individuals would be a last resort.
- 2.8 Subject to the above 'Support before Enforcement' thresholds being met, some new enforcement measures are proposed for the delivery of increased community protection, based upon the support and recommendations from the Police.
- 2.9 No single power provides a simple solution that can address all the issues raised. However, to ensure any enforcement mechanism can be aligned to the support available, a Community Protection Notice (CPN) route is recommended, as this represents the most appropriate person-focussed tool for the majority of cases. This approach has been successfully used this year.
- 2.10 A CPN route is focussed upon the behaviours and defined circumstances of an individual, setting out the positive steps an individual should take to access support. Where the specific offers of support are declined, or not engaged with, the CPN allows for enforcement to be tailored to seek positive steps to changed and improved behaviours. The Royal Borough can stipulate engagement with a defined support mechanism, e.g. actively working with the substance treatment service, or face potential formal enforcement action. Formal enforcement action will be a last resort, but would be a defined fixed penalty notice (FPN) or prosecution.
- 2.11 Where a FPN is not applicable, such as for those individuals where a financial penalty would have limited effect, Officers may apply to the court for an injunction on certain behaviours or activities, or similarly support Thames Valley Police in the consideration of these behaviours as part of a wider criminal investigation, that will seek to bring about a positive change in behaviours.
- 2.12 This approach contrasts with a Public Space Protection Order (PSPO) approach which focusses on the restriction of behaviours or activities for all persons in a defined geographic area, introduced and responding to an emerging evidence base, where such behaviours are causing a detriment to wider community amenity, so rather than be targeted at a specific individual (as per CPN approach) they will apply to everyone.
- 2.13 Any PSPO approved lasts for three years before a review is required, as such a review of the current PSPO for street drinking is required in October 2018. This will be undertaken in partnership with Thames Valley Police, to consider the lessons and impacts of the period since the existing no street drinking orders were introduced.
- 2.14 A fixed penalty notice (FPN) applies for both PSPO and CPN offences witnessed. A standardised FPN offence is recommended by this paper to be set at £100 (aligned to the maximum penalty applicable to a PSPO offence as used by the vast majority of

other authorities where a standard charge approach is now used), reduced to £75 if paid within ten working days.

2.15 It is recommended that current FPN offences under historic legislation relating to dog fouling (current/previous £52 penalty) and littering (current/previous £75 penalty) are incorporated within a borough wide rate set at the recommended standardised £100 penalty. For illustration Slough BC and Oxford City Council have both elected to set their deterrent FPNs for PSPOs and CPNs at £100.

Litter thrown from vehicles

2.16 An additional civil offence is also proposed, utilising new legislation produced this year, relating to issuing the registered keeper of a vehicle a civil penalty should litter be thrown from their vehicle. The regulations require the penalties for littering to be consistent between that thrown in person and from a car. The standardised £100 FPN proposed would address this requirement.

Table 1: Options considered

Option	Comments
<p>Adopt the ‘Support before Enforcement’ model and ensure support is identified and provided to vulnerable individuals, as the first priority, and proceed to standardise the FPN rates as outlined</p> <p>The recommended option</p>	<p>This option would equip the Royal Borough to effectively support vulnerable individuals and deal with a range of ASB, working with partners to meet the needs of residents and visitors in a proportionate manner.</p> <p>Taking this opportunity to implement a standard FPN rate will allow for a real deterrent to be set by the borough in response to emerging issues, when support is not taken up:</p> <ul style="list-style-type: none"> • antisocial behaviour • littering from vehicles • street drinking • public urination • dog fouling • littering • graffiti • fly-tipping
<p>Maintain the current informal enforcement mechanisms, and do not uptake of standard FPN rate or CSAS powers available.</p> <p>This is not recommended</p>	<p>Without the uptake of the full suite of powers available, and the standardisation of FPNs, the Royal Borough would not be maximising the opportunity to provide an effective deterrent nor expand its remit to address current community concerns.</p>
<p>Review and renew current PSPOs only</p> <p>This is not recommended</p>	<p>Taking this opportunity would allow the existing PSPOs to be maintained. It does not include the ability to enforce PSPOs or CPNs with FPNs. It does not include the adoption of the other FPNs and offences listed.</p>

Option	Comments
	The Royal Borough has a duty to deal with ASB concerns from residents, internal and external partners. To review and renew the existing PSPOs in effect would not allow the Royal Borough to meet the demands of partners and residents.

3 KEY IMPLICATIONS

3.1 Table 2 contains the key implications.

Table 2: Key implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
New standardised FPNs for all relevant offences set and enforceable	FPNs for PSPOs and CPNs not in place by 31/12/2018	FPNs for PSPOs and CPNs in place by 31/11/2018	FPNs for PSPOs and CPNs in place by 31/10/2018	FPNs for PSPOs and CPNs in place by 30/09/2018	31/11/2018
Ability to issue civil penalties for littering from vehicles, including the required officer training, access to the DVLA database; with the appropriate appeals and debt recovery procedures to be in place	Achieved after 1/4/2019	Achieved 1/4/2019	Achieved 1/3/2019	Achieved 1/2/2019	1/4/2019

4 FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 Income targets cannot be set for FPNs. However, it is expected that the increased level and number of FPNs will generate some increased income. It should be noted that this income will be partly offset by the costs of taking prosecutions when FPNs are not paid.
- 4.2 Some efficiency savings are expected as officers will be able to deal with ASB at an earlier stage using FPNs, rather than long and often drawn out prosecution proceedings.

5 LEGAL IMPLICATIONS

- 5.1 If used effectively the Support before Enforcement model is expected to reduce the number of cases where enforcement action is required, due to the needs of the vulnerable community being addressed through appropriate and targeted support, rather than individuals being drawn into or actively being involved in unlawful activity. Where FPNs are issued, there could lead to an increase in the number of cases the Royal Borough takes to Court.
- 5.2 Although FPNs may be adopted and the level set, they do not have to be used on every occasion, e.g. if the offender is young or lacks capacity to understand the consequences of their actions. A cautious approach will be adopted, together with the Support before Enforcement model described. This strategy seeks to ensure that those who are genuinely vulnerable will not be subject to multiple FPNs but are identified and additional support provided before an enforcement approach is pursued.

6 RISK MANAGEMENT

- 6.1 The increased focus on addressing ASB will expose staff to more contact with perpetrators of ASB, and appropriate risk assessment will be completed prior to implementation. This, with appropriate training, personal protection equipment (PPE) and mitigations established, will control the risk.

Table 3: Impact of risk and mitigation

Risks	Uncontrolled Risk	Controls	Controlled Risk
Risk of negative public perception if ASB is not tackled.	Without sufficient legal powers the Royal Borough is unequipped to effectively tackle ASB at an early stage.	Adopt new powers, adopt new FPNs and increase the level of existing FPNs so that they remain an effective deterrent.	Public and other stakeholders have confidence that ASB is addressed at the earliest opportunity
Risk of physical harm to staff.	Physical threat from confrontation by perpetrators.	i) Training to cover correct methods of engagement during enforcement. ii) Body worn cameras and protection vests provided to those focused on addressing ASB incidents.	Risk assessment to confirm appropriate mitigations and PPE; with threat of harm reduced to acceptable level.

7 POTENTIAL IMPACTS

- 7.1 The adoption of a Support before Enforcement model, seeks to recognise that there are some very vulnerable individuals who need to be treated as unique individuals, and in a very humanitarian way, however it also seeks to recognise that with

expanded powers, as applied by the extended Community Warden team, persistent individuals who do not engage with the support being offered, can be tackled and those who present themselves as vulnerable to exploit visitors and residents are tackled in a systematic and proportionate manner.

- 7.2 This will have a positive impact for the community as a whole, and enable the Royal Borough to utilise existing powers available and those which can be granted by the Chief Constable, under the CSAS accreditation scheme, to respond to the overall needs of borough residents and businesses. This approach reflects feedback received from many of the residents who have raised the negative impact ASB on the streets is having in the town centres.
- 7.3 An effective communications strategy will underpin the rollout of any new powers to ensure the public are fully engaged and understand the principles of a Support before Enforcement model.
- 7.4 A full Equality Impact Assessment (EQIA) will be completed, if following the initial screening, a full EQIA is identified as necessary.

8 CONSULTATION

- 8.1 The comments of a joint Crime and Disorder Overview and Scrutiny Panel and Planning and Housing Overview and Scrutiny Panel, being held on 20 September 2018, will be sought.
- 8.2 The initial views of the LPA have been obtained to provide in principle support of the partnership approach being adopted through the Support before Enforcement model to address Anti-Social Behaviour and develop an effective strategy.
- 8.3 Based upon the feedback received from residents and visitors, users of the towns centres recognise this a complex issue and support for those who are vulnerable should be provided which reflect their individual and complex needs, however where support is not engaged with, there is an expectation that the Authority will take further steps to address and reduce or stop the ASB.

9 TIMETABLE FOR IMPLEMENTATION

- 9.1 Stages for implementing the recommendations as below:

Table 4: Implementation timetable

Date	Details
October 2018	Rollout commences of new Support before Enforcement approach with newly appointed Community Warden Problem Solving cohort

- 9.2 Implementation date if not called in: Phased implementation from October.

10 APPENDICES

None

11 BACKGROUND DOCUMENTS

March 2018 – Cabinet report: Community Warden Enhancement

12 CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Grey	Lead Member for Environmental Services (including Parking & Flooding)	6 July 2018	6 July 2018
Cllr Bicknell	Lead Member for Windsor	6 July 2018	24 July 2018
Alison Alexander	Managing Director	30 Aug 2018	30 Aug 2018
Russell O'Keefe	Executive Director	30 Aug 2018	6 Sept 2018
Andy Jeffs	Executive Director	30 Aug 2018	6 Sept 2018
Rob Stubbs	Section 151 Officer	30 Aug 2018	6 Sept 2018
Nikki Craig	Head of HR and Corporate Projects	30 Aug 2018	6 Sept 2018
Elaine Brown	Head of Law and Governance	30 Aug 2018	6 Sept 2018
Louisa Dean	Communications and Marketing Manager	30 Aug 2018	6 Sept 2018

REPORT HISTORY

Decision type: Key decision	Urgency item? No
Report Authors: David Scott, Head of Communities, Enforcement and Partnerships – 01628 796748 Chris Nash, Community Protection Principal - 07976 594501	