

**Environmental Enforcement: Fly-Tipping & Littering****Report by Kevin Anderson, Executive Director - Place****Report for Decision****1 Recommendations**

Council is recommended to note the current position with regards to environmental regulation and approve the following:

- (i) Officers to undertake a fully costed options appraisal for the utilisation of contractors to undertake enforcement for environmental offences including fly-tipping, dog fouling, littering; and report to Council;
- (ii) Officers to develop a Midlothian Environmental Crime Strategy, led by Protective Services; and report to Council;
- (iii) Officers to establish the Midlothian Neighbourhood & Environmental Improvement Group, led by Neighbourhood Services, to engage with community champions, groups and representatives in order to facilitate, assist and help coordinate the valued community responses and actions;
- (iv) Officers to report performance outcomes regularly to the Police and Fire & Rescue Board.

**2 Purpose of Report**

The purpose of this report is to provide Council with the current position on environmental regulation, enforcement and partnership working with our communities in tackling fly-tipping, littering, dog fouling and other associated offences; which are issues of concern across Midlothian's communities.

**Date:** 09 August 2021**Report Contact:** Derek Oliver, Chief Officer - Place**Email:** [derek.oliver@midlothian.gov.uk](mailto:derek.oliver@midlothian.gov.uk)

### **3 Background**

- 3.1 Midlothian Council agreed a Motion on 29<sup>th</sup> June 2021 with regards to working with local groups and individuals to improve open spaces; provision of public space bins; and environmental enforcement using private companies; and requested that a report be presented at the next Council meeting.

### **4 Environmental Enforcement**

- 4.1 Currently, environmental offences are investigated and actioned by the Environmental Health Service. With the range of statutory functions and, most recently the Covid pandemic, to regulate and enforce, the priority of response is targeted towards the higher public health and safety risks.
- 4.2 The Environmental Health Service and Police Scotland's Midlothian Community Action Team have worked effectively together over the past year with regards to fly-tipping offences, with three individuals charged with associated offences. The reports have been submitted to the Procurator Fiscal.
- 4.3 With the stretch on resource within Environmental Health, an alternative model to pursue offenders is required to robustly deal with offenders and serve as a deterrent.
- 4.4 A number of local authorities in other parts of the United Kingdom, notably England and Northern Ireland, have utilised the services of private enforcement companies to undertake the regulation of environmental offences, such as fly-tipping, littering and dog fouling. This has been operated on a commercial basis by the private companies, on a performance based income, with no cost levied on the local authorities.
- 4.5 However, on examination of the relevant legislation, (Environmental Protection Act 1990) there is a wider classification of Authorised Officer in these other parts allowing private companies to undertake enforcement duties, as compared to Scotland. Consequently, Midlothian Council would be unable to utilise a private company to undertake this function.
- 4.6 Environmental Health Officers can however be appointed and authorised on an agency basis for undertaking all legislative requirements, in line with their competence and qualifications. An alternative model, along a similar structure, is for persons to be appointed and authorised on a contractor basis through a private enforcement company. The contractual terms will require further refinement and agreement to maximise performance factor of any appointees and cost implications.

### **5 Midlothian Environmental Crime Strategy**

- 5.1 A robust strategy, developed in partnership with local groups and individuals, Council services and partner agencies, is necessary to ensure a professional and visible enforcement service to tackle environmental crime which is cost efficient, sustainable and proportionate, ensuring our communities are both informed and

educated about the importance of maintaining a clean, green local environment.

- 5.2 Currently, the contact point, roles and responsibilities and responses span across a number of services, including Environmental Health, Waste Services and Land Services. This requires to be streamlined, with clear communication channels and responsibilities detailed, with service standards developed in consultation with the public, local groups, land owners and partner agencies.
- 5.3 A suite of interventions is necessary to combat fly-tipping. It has to include information on where Midlothian communities can dispose of waste responsibly; who our communities can contact to legitimately uplift and dispose of waste, with those vetted and assessed by Police Scotland and Trading Standards; what the duty of care means and requires; and a robust response to any offence.
- 5.4 Other key actions would be for CCTV to be deployed at identified local hot-spots; to publicise and promote existing and new waste collection services, increasing the offer to mitigate against fly-tipping; clear fly-tipped material on public land within a set timescale; work with private land owners and SEPA to investigate and remove waste dumped on private land; regularly inspect commercial waste disposal contracts/arrangements; publicise fixed penalty notices issued and convictions; utilise the MCAT and Midlothian Partnership Against Rural Crime as a network to share intelligence; and provide feedback to communities on the result of investigations and any subsequent prosecutions.

## **6 Midlothian Neighbourhood & Environmental Improvement Group**

- 6.1 Currently, the Council responds to various community requests for equipment and materials to assist with litter clearing, which varies from provision of grabbers and bags, to the provision of skips or Refuse Collection Vehicles to dispose of collected waste. However, without prior discussion and coordination of these arrangements, it can lead to logistical issues.
- 6.2 A Neighbourhood & Environmental Improvement Group would be the platform for working with and developing the Council's assistance and response to community initiatives. The Group can also agree on service standards and consultation for Neighbourhood Services strategies and operations. This would act as the appropriate platform for an identified officer contact to assist, coordinate, facilitate and respond to local environmental improvement initiatives and campaigns, such as litter picks or community clean ups.
- 6.3 As part of the new Midlothian Environmental Crime Strategy, a focused consultative forum of this nature would also be effective for local intelligence to be shared on fly-tipping, dog fouling and littering hot-spots.

## **7 Performance Reporting**

- 7.1 With the significant partnership working of the council with both Police Scotland and the Scottish Fire and Rescue Service, regarding environmental crime, reporting performance regularly to the Police and Fire & Rescue Board would provide the necessary governance

structure, robust process and scrutiny to the operations and management of this regulatory function going forward.

## **8 Report Implications**

### **8.1 Resource**

The assessment and options appraisal for contractors to undertake environmental enforcement, together with the creation of Midlothian Environmental Crime Strategy and Midlothian Neighbourhood & Environmental Improvement Group can be met within existing service budgets.

### **6.2 Digital**

Not applicable at this stage.

### **6.3 Risk**

There is a risk of reputational and financial implication on the Council for environmental crime. Additional resource will be required to target environmental crime if contractors are not appointed. .

### **6.4 Ensuring Equalities**

The subject of this report has a positive impact in the environment and as such does not affect the wellbeing of the community or have a significant detrimental impact on equality, the environment or economy.

### **6.5 Additional Report Implications**

See Appendix A

## APPENDIX A – Report Implications

### A.1 Key Priorities within the Single Midlothian Plan

The route map outlines the phases of service recovery and transformation which will underpin the Single Midlothian Plan.

### A.2 Key Drivers for Change

Key drivers addressed in this report:

- ☐ Holistic Working
- ☐ Hub and Spoke
- ☐ Modern
- ☒ Sustainable
- ☐ Transformational
- ☒ Preventative
- ☒ Asset-based
- ☒ Continuous Improvement
- ☐ One size fits one
- ☐ None of the above

### A.3 Key Delivery Streams

Key delivery streams addressed in this report:

- ☒ One Council Working with you, for you
- ☒ Preventative and Sustainable
- ☒ Efficient and Modern
- ☒ Innovative and Ambitious
- ☐ None of the above

### A.4 Delivering Best Value

The report aims to deliver best value.

### A.5 Involving Communities and Other Stakeholders

Having a robust response to environmental crime and the ongoing partnership working with communities is vital to Midlothian's community safety. Consultation with communities, local groups, Police Scotland and SFRS will be imperative.

### A.6 Impact on Performance and Outcomes

The report aims to measure progress through outcomes.

### A.7 Adopting a Preventative Approach

The report is based on the creation of a wellbeing economy which prioritises prevention, fairness for people, the economy and the environment.

### A.8 Supporting Sustainable Development

The improvement and enhancement of our environment.

