

# **Cherwell District Council**

## **Council**

**16 June 2014**

<p><b>Section 113 Arrangements – Authorisation of Staff to Issue Fixed Penalty Notices Policy Framework Decision</b></p>
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### **Report of Head of Environmental Services**

This report is public

#### **Purpose of report**

To approve the Council (CDC) entering into an agreement under Section 113 of the Local Government Act 1972 with Banbury Town Council (BTC) to allow BTC officers to issue fixed penalty notices for offences committed under section 88 of the Environmental Protection Act 1990 and section 3 of the Dogs (Fouling of Land) Act 1996 and to make appropriate adjustments to the policy framework to permit this arrangement.

#### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To approve CDC entering into an agreement with BTC pursuant to Section 113 of the Local Government Act 1972 that permits BTC officers to issue fixed penalty notices for offences committed under section 88 of the Environmental Protection Act 1990 and section 3 of the Dogs (Fouling of Land) Act 1996, and that the Head of Law and Governance accordingly be authorised to conclude such an agreement by negotiation with BTC within the parameters set out in this report.
- 1.2 That the principle of placing at the disposal of CDC officers employed by BTC for the purpose of issuing fixed penalty notices be added to the adopted policy framework.

#### **2.0 Introduction**

The purpose of this report is to enable BTC Park Rangers and other nominated staff to issue Fixed Penalty Notices for dog fouling and littering.

### 3.0 Report Details

- 3.1 Section 113 (1) of the Local Government Act 1972 provides that a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, of the services of officers employed by the former. The authority to enter into such agreements rests with Full Council.
- 3.2 CDC is the Principal Litter Authority for the Cherwell district by virtue of the provisions of section 86(2)(b) of the Environmental Protection Act 1990 ("the 1990 Act") and is accordingly the litter authority responsible for issuing Fixed Penalty Notices for leaving litter under section 88 of the 1990 Act.
- 3.3 CDC is also the local authority responsible issuing Fixed Penalty Notices for dog fouling on designated land within the Cherwell district pursuant to section 3 of the Dogs (Fouling of Land) Act 1996 ("the 1996 Act").
- 3.4 The intention is that officers of BTC be placed at the disposal of CDC for the purpose of issuing Fixed Penalty Notices in relation to littering offences committed under section 87 of the 1990 Act and dog fouling offences committed under section 4 of the 1996 Act within the Banbury parish boundary.
- 3.5 At the Town Council meeting on 19 November 2013 it was unanimously RESOLVED that:

"Banbury Town Council is proud of its record of providing many free events for tourists and townspeople and our major investment in our parks and open spaces. We also recognise the hard work undertaken by both Banbury Town Council and Cherwell District Council cleansing teams in their respective areas. We acknowledge that at peak times and especially on Bank Holidays our town and parks have a welcome surge in use, but this can lead to a few selfish individuals spoiling the town for the majority by littering. We acknowledge the current joint working arrangements but ask for more frequent liaison and even closer co-operation between those responsible for cleansing in the town in both the public and private sector."

- 3.6 Following the Town Council resolution CDC and BTC officers met to discuss the scope for closer working. As a result of these meetings a number of new arrangements have been put in place to improve co-ordination between Town Council staff and CDC street cleansing, including quarterly meetings to be held between the Town Council's Recreation & Amenities Manager and CDC Cleansing and Enforcement Managers and closer working on CDC education programmes, such as "Major Sparkle" and promotional initiatives, including "Litter Blitzes" and Keep Britain Tidy campaigns.
- 3.7 The main focus of these officer level meetings has however been upon how the Town Council can become involved in the District Council's enforcement regime for tackling littering and dog fouling through the mechanism of issuing Fixed Penalty Notices.

## 4.0 Conclusion and Reasons for Recommendations

- 4.1 Given the shared service objectives of both Councils around the “clean and green” agenda and the need to ensure that appropriate governance arrangements are in place, it is recommended that the Council support the recommendations as set out in this report.

## 5.0 Consultation

Councillor Nigel Morris – Lead Member for Clean and Green

Supports the closer working arrangements between the two Councils to further the Clean and Green objectives, including the authorisation of Town Council officers to issue FPNs for dog fouling and littering.

Banbury Town Council

Unanimously resolved to support these recommendations on 19 November 2013

## 6.0 Alternative Options and Reasons for Rejection

- 5.1 The following options have been considered, and Option 2 rejected for the reasons as set out below.

Option 1: To agree the recommendations. This option is perceived to be in the best interests of both Councils.

Option 2: Not to agree the recommendations. This would not be in the interests of either Council. It would demonstrate a lack of willingness to facilitate closer working arrangements to improve the local environment, contrary to the expressed intentions of both Councils to work together to maximise the effectiveness of staff delivering aspects of the Clean and Green agenda.

## 7.0 Implications

### Financial and Resource Implications

- 7.1 All fines penalties and other court costs paid or recovered in relation to or connected with any FPN issued by an Authorised Officer will be owed to and retained by CDC.
- 7.2 The ongoing salary and on-costs, superannuation, training, travel and incidental costs of Authorised Officers shall be borne by BTC.
- 7.3 The parties will each bear its own legal and other fees in relation to the preparation and completion of the Agreement.

Comments checked by: Nicola Jackson, Corporate Finance Manager 01295 221731 [nicola.jackson@cherwellandsouthnorthants.gov.uk](mailto:nicola.jackson@cherwellandsouthnorthants.gov.uk)

### **Legal Implications**

- 7.4 Section 113 of the Local Government Act 1972 permits an officer of one Council to be put at the disposal of another and the formal agreement proposed will set the legal parameters for the issuing of Fixed Penalty Notices by Authorised Officers of BTC.

Comments checked by: Richard Hawtin, Team Leader – Property and Contracts 01295 221695 [Richard.hawtin@cherwell-dc.gov.uk](mailto:Richard.hawtin@cherwell-dc.gov.uk)

### **Risk Implications**

- 7.5 BTC will be responsible for undertaking its, and for ensuring Authorised Officers undertake their, own risk assessments in respect of all actions and activities relating to or associated with the issue of FPNs.

Comments checked by: Louise Tustian – Senior Performance and Improvement Officer, 01295 221786, [Lousie.tustian2@cherwellandsouthnorthants.gov.uk](mailto:Lousie.tustian2@cherwellandsouthnorthants.gov.uk)

## **8.0 Decision Information**

### **Wards Affected**

All Banbury Wards.

### **Links to Corporate Plan and Policy Framework**

The Town Council is fully supportive of CDC's Corporate Policy Objective to provide Cleaner, Safer, Greener Communities. One of the aims of this objective is to improve the quality of the local environment, as this affects and reflects the well-being of the local community. Whether it's a town centre, local park or street, it is important that these areas are attractive and safe places to be.

It is one of the Town Council's corporate objectives to promote Banbury as a clean, safe, welcoming and prosperous town for all. More specifically the Town Council has a key service objective to provide and maintain high standard outdoor recreational areas. Action to combat dog fouling and littering would be in accordance with these policy objectives.

### **Lead Councillor**

Councillor Nigel Morris, Lead Member for Clean and Green

### **Document Information**

<b>Appendix No</b>	<b>Title</b>
None	None
<b>Background Papers</b>	
None	
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