

Decision Maker: Environment Portfolio Holder

For Pre-Decision Scrutiny by the Environment PDS Committee on:

Date: 19th November 2013

Decision Type: Non-Urgent Executive Non-Key

Title: ON-STREET LITTER ENFORCEMENT CONTRACT

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Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward:

1. Reason for report

This report provides an update on the use of Kingdom Security Ltd to provide an enforcement service serving fixed penalty notices (FPNs) for littering and dog fouling offences and outlines a strategy for the future delivery of this service.

2. **RECOMMENDATION**

That the Environment Portfolio Holder:

- 2.1 Approves the extension of the existing concessionary contract arrangement to the 31st of May 2014 with an appropriate provider through a negotiated arrangement.
- 2.2 Approves officers to review the existing service model and enter into negotiations, through a concessionary pricing contract, with service providers to establish an appropriate service model from 1st June 2014.

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Quality Environment:
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Financial

1. Cost of proposal: Estimated cost of the extension is up to £15k depending on the recovery rate achieved
 2. Ongoing costs: N/A
 3. Budget head/performance centre: Street Scene and Green Space Division
 4. Total current budget for this head: £29.9m
 5. Source of funding: Existing controllable revenue budget 2013/2014
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): All residents and visitors
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 On 6 April 2006 powers under the Clean Neighbourhoods Act 2005 came into effect, allowing the serving of FPNs for litter, waste and various other offences. Following the meeting of the Environment and Leisure PDS Committee on 27 June 2006 (Report ELS06163) the then Environment & Leisure Portfolio Holder approved the introduction of FPNs for dealing with all the offences outlined in the Act.
- 3.2 Early in 2012 the Council received a proposal from XFOR Local Authority Support Ltd (XFOR), to provide an enforcement service for the issuing of FPNs to offenders who drop litter or allow their dog to defecate in public places. The uniformed enforcement officers would also be able to advise and educate the public in relation to environmental awareness.
- 3.3 Following the meeting of the Environment PDS Committee on 17 April 2012 (Report ES12066), the Environment Portfolio Holder approved the proposal to enter into an agreement with XFOR for a six-month trial period.
- 3.4 The trial started on 10 September 2012. The service provided by XFOR was for one team leader, four enforcement officers and one administrator; operating 40 hours per week, Monday to Saturday between 8am and 6pm, with any other days, hours or special projects by agreement. XFOR's fee for providing this service would be £45 + VAT for each FPN issued.
- 3.5 Following the meeting of the Environment PDS Committee on 15 January 2013, (Report No. ES13002), the Environment Portfolio Holder approved the extension of the trial period for a further six months to the end of August 2013, allowing for a more detailed analysis of the scheme over a 12-month period. Approval was also given to examine other areas that would also benefit from a similar approach, so that Members could consider all of this when deciding on the way forward for environmental enforcement.
- 3.6 In February 2013, XFOR was acquired by Kingdom Security Ltd (KSL). On 1 March 2013 the Council entered into a contract (under a concessionary arrangement) with KSL to provide the same service as previously offered by XFOR.
- 3.7 Following negotiations with KSL it was agreed that the fee paid for each FPN issued would be reduced from £45 to £40 from 1 July 2013. KSL also agreed to introduce management actions to improve the quality of the process for issuing FPNs, to increase the lower than expected payment rate and to enable more effective court proceedings. Table 1 shows the number of FPNs issued and the percentage payment rates since March 2013. From 11 October 2013, KSL also agreed to issue FPNs for spitting in public as a littering offence.

Table 1 – FPNs issued and paid April – August 2013

Month	FPNs Issued	% of FPNs paid
April	466	46
May	464	47
June	550	52
July	549	50
August	469	39

3.8 The trial arrangement with KSL expired on 31 August 2013. It is intended to regularise and extend this arrangement with an appropriate provider through a negotiated arrangement to 31st May 2014. This period will allow sufficient time to enable a detailed review and analysis on the provision of this service, following the changes and performance described in 3.7 above. The extension period will also enable further consideration to be given to options regarding a strategy for the provision of environment enforcement services including the negotiation of the price of any commissioned service. This will be submitted via the Environment PDS Committee in early 2014. If approved, the extended period would allow time for the commissioning and mobilisation of any alternative arrangement.

4. POLICY IMPLICATIONS

4.1 To contribute towards the Building a Better Bromley objective of a Quality Environment, a key aim set out in the Environment Portfolio Plan 2012-15 is to maintain street cleanliness. This scheme supplements existing Council resources in bringing about an improvement to the street scene through a reduction in the amount of litter. The Environment Portfolio Plan 2013/16 includes a commitment to “Extend the trial use of a private enforcement company to issue fixed penalty notices for littering and dog fouling”.

5. FINANCIAL IMPLICATIONS

5.1 This contract was expected to be cost neutral, but additional costs have been incurred due to non-payment of FPNs and additional resource pressures on the Council’s Legal, Finance and Street Scene teams in support of this process. For the first year, net additional costs of £25k have been incurred due to the recovery rate being below 50% and this has been funded from within the Street Scene and Green Space budget.

5.2 Following negotiations with KSL, from 1 July 2013 the fee paid to them has been reduced to £40 for each FPN issued. Based on the current average recovery rate of 47%, additional costs of up to £15k could be incurred during the extension period to 31 May 2014 and will be funded from the Street Scene and Green Space Divisional budget. However, with the reduction in fees and improved measures in place for increasing the payment rate from offenders, it is expected that the recovery rate will improve to nearer 50%.

5.3 The overall estimated contract value from 10 September 2012 to 31 May 2014 will be £438k. The table below summarises the financial position assuming the current average recovery rate of 47%: -

	Sept 11 to Mar 13	Apr 13 To Aug 13	Extension Sept 13 To 31 May 14	Total
FPN Numbers	2,961	2,498	4,950	10,409
Expenditure and Income	£	£	£	£
Contract costs	133,245	107,240	198,000	438,485
Stationery costs	6,000	4,000	3,000	13,000
Income (actual & expected)	(128,302)	(97,510)	(186,120)	(411,932)
Net cost/(surplus)	10,943	13,730	14,880	39,553

5.4 The additional resource pressures on the Legal, Finance and Street Scene teams will continue to be monitored and costs will be considered as part of the extension as well as any future proposals for the service. To date it is estimated that the amount of staff time involved in the monitoring and management of this contract is equivalent to £28k.

6. LEGAL IMPLICATIONS

6.1 The FPN process operates in accordance with the requirements of The Clean Neighbourhoods and Environment Act 2005. This legislation enables the Council to enter into an agreement with a contractor for its employees to issue FPNs.

6.2 For the purpose of the trial period, under CPR 13.1 the Portfolio Holder waived the requirement to put this scheme out for competitive tender. It is intended to continue with this arrangement during the extended period of the trial.

7. PERSONNEL IMPLICATIONS

7.1 There is a requirement to manage the arrangement with KSL, which will need to continue. This impact on existing resources amounts to about 0.3FTE that is currently being covered by changing priorities in other work areas.

Non-Applicable Sections:	None
Background Documents: (Access via Contact Officer)	<p>Proposal to introduce Fixed Penalty Notices in respect of litter. Report No. ELS05339. 20 October 2005.</p> <p>An update on Fixed Penalty Notices in respect of litter. Report No. ELS06163. 27 June 2006.</p> <p>Fixed Penalty Notices for Envirocrime Offences. Report No. ELS07031. 8 March 2007.</p> <p>Proposal for Provision of Enforcement Services. Report No. ES12066. 17 April 2012.</p> <p>Review of the Provision of Enforcement Services. Report No. ES13002. 15 January 2013.</p>