

**Decision Maker:**        **Environment Portfolio Holder**  
  
   **for Pre-Decision Scrutiny by the Environment PDS Committee**  
   **on**

**Date:**                        **25 March 2014**

**Decision Type:**        Non-Urgent                        Executive                        Non-Key

**Title:**                        **ON-STREET ENFORCEMENT**

**Contact Officer:**        Dan Jones, Assistant Director Street Scene and Green Space  
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**Chief Officer:**            Nigel Davies, Executive Director of Environment & Community Services

**Ward:**                        All

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1.    Reason for report

This report recommends extending the use of Ward Security for the enforcement service serving fixed penalty notices (FPNs) for littering and dog fouling offences, and outlines a strategy for the future delivery of this service.

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2.    **RECOMMENDATIONS**

**That the Environment Portfolio Holder:**

- 2.1 **Approves the extension to 31st August 2014 of the negotiated variation to an existing contract arrangement with Ward Security under CPR 27.1/13.1.;**
- 2.2 **Approves a review of the previous and current service models for Enforcement Services; and**
- 2.3 **Agrees that officers enter into negotiations with service providers to establish an appropriate service model from 1st September 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 contract extension is £48k with a net cost to the Council of up to £16k depending on the recovery rate achieved
  2. Ongoing costs: N/A
  3. Budget head/performance centre: Streetscene and Greenspace Division
  4. Total current budget for this head: £29.9m
  5. Source of funding: Existing controllable revenue budget 2013/2014 and 2014/15 budget
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### Staff

1. Number of staff (current and additional): 1
  2. If from existing staff resources, number of staff hours: 0.3 FTE
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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? No
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

- 3.1 Early in 2012 the Council received a proposal from XFOR Local Authority Support Ltd (XFOR), for the provision of an enforcement service to issue 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.
- 3.2 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 (under a concessionary arrangement) with XFOR a for trial period.
- 3.3 The trial period commenced in 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 for each FPN issued – later reduced to £40.
- 3.4 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 to the end of August 2013, allowing for a more detailed analysis of the scheme over a 12 month period.
- 3.5 In February 2013, XFOR was acquired by Kingdom Security Ltd (KSL). On 1 March 2013 the Council entered into a contract with KSL to provide the same service as previously offered by XFOR.
- 3.6 Following the meeting of the Environment PDS Committee on 19 November 2013(Report No. ES13127) the Environment Portfolio Holder approved the extension of this arrangement with an appropriate provider through a negotiated arrangement to 31<sup>st</sup> May 2014. This was to allow sufficient time for a detailed review and analysis of this service. The extension period would enable further consideration to be given to options for the provision of environment enforcement services, including the negotiation of the price of any commissioned service. It was agreed that a further report would be submitted via the Environment PDS Committee in early 2014.
- 3.7 Responsibility for provision of the service until the 31 May 2014 was transferred to Ward Security on the 20 January 2014 under a fixed price arrangement (£16k per month), via a negotiated variation to the existing contract.
- 3.8 Given the delay in entering into a new agreement it has not been possible to assess the effectiveness of the fixed fee arrangement in order to inform the options analysis for the procurement strategy.
- 3.9 It is therefore recommended that the arrangement with Ward Security be extended by three months to 31 August 2014, to allow for a review and analysis to be conducted. This will enable the development of a robust procurement strategy for presentation to Members, including consideration of other related enforcement functions and the possibility of joint working with neighbouring authorities.

#### 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 2013-16 is to improve 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 also includes a specific 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 original contract with XFOR (and subsequently KSL) 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 Streetscene teams supporting this pilot. From September 2011 to 19<sup>th</sup> January 2014, net additional costs of £45k have been incurred due to the recovery rate being below 50%; this has been funded from within the Streetscene and Greenspace budget.
- 5.2 Since the provision of the service was transferred to Ward Security on 20<sup>th</sup> January 2014 for a fixed fee of £16k per month, the number of tickets issued per month has fallen to under 350. Should this level of tickets continue, together with the latest average recovery rate of 41%, net additional costs of £21k will be incurred until the end of May 2014. This deficit will also have to be funded from within Streetscene and Greenspace budgets.
- 5.3 This report recommends that the contract with Ward Security is extended to 31 August 2014, to allow adequate time for a thorough review and analysis to be undertaken. It is proposed that Ward Security will continue to be paid a fixed fee of £16k per month, with LBB retaining all income.
- 5.4 Based on the latest average recovery rate of 41%, additional costs of up to £16k could be incurred during the extension period to 31 August 2014. This will continue to be contained within the Streetscene and Greenspace budgets. However, it is expected that the recovery rate will improve under the contract management of Ward Security and better measures in place for increasing payment rates from offenders.
- 5.5 The overall contract value for the service from 10 September 2011 to 31 August 2014 will be £451k. The table below summarises the financial position assuming the current average recovery rate of 41%: -

	Sept 11 to Mar 13	Apr 13 to 19 Jan 14	20 Jan 2014 to 31 May 2013	Extension 1 Jun 2014 to 31 Aug 2014	Total
<b>FPN Nos.</b>	<b>2,961</b>	<b>4,804</b>	<b>1,576</b>	<b>1,050</b>	<b>10,391</b>
	£	£	£	£	£
<b>Expenditure &amp; Income</b>					
Contract costs - XFOR/Kingdom Security	133,245	199,760	0	0	<b>333,005</b>
Contract costs - Ward Security	0	0	69,680	48,000	<b>117,680</b>
Stationery costs	6,000	5,000	3,000	2,000	<b>16,000</b>
Income (actual & expected)	<b>-128,302</b>	<b>-170,800</b>	<b>-51,690</b>	<b>-34,440</b>	<b>-385,232</b>
<b>Net cost /(surplus)</b>	<b>10,943</b>	<b>33,960</b>	<b>20,990</b>	<b>15,560</b>	<b>81,453</b>

5.6 The additional resource pressures on the Legal, Finance and Streetscene 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 £35k.

## 6. LEGAL IMPLICATIONS

- 6.1 The FPN process is 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 to issue FPNs.
- 6.2 For the purpose of the initial trial period, under Contract Procedure Rule (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.
- 6.3 The arrangement from 20 January 2014 to 31 August 2014 with Ward Security is a negotiated variation to the existing contract for the provision of security services to the London Borough of Bromley. Necessary authorisation will be sought under CPR 23.7 and 13.1.

## 7. PERSONNEL IMPLICATIONS

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

<b>Non-Applicable Sections:</b>	
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>