

Decision Maker: **Environment Portfolio Holder**

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

Date: **4th November 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

1. Reason for report

1.1 This report presents an option to provide a service, at zero net cost to LBB, for dedicated officers to enforce on-street littering and other related environmental crimes, through the issuing of fixed penalty notices (FPNs), from 1 January 2015 to 31 March 2020.

2. **RECOMMENDATIONS**

That the Environment Portfolio Holder:

2.1 **Approves to extend and vary the existing Parks Security Contract to include the issuing of Fixed Penalty Notices where individuals are in breach of the requirements of the Clean Neighbourhood and Environment Act, including for littering and dog fouling on the public Highway.**

Corporate Policy

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

1. Cost of proposal: Estimated contract value is £677k with an overall net nil cost to the Council. One-off set up costs of £2k
 2. Ongoing costs: £2.2k for year 1 and £1k per annum thereafter for licence fees and stationery
 3. Budget head/performance centre: Street Regulation
 4. Total current budget for this head: £320k
 5. Source of funding: Existing controllable revenue budget for 2014/15
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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

Background

- 3.1 Since September 2012 the London Borough Bromley have trialled the provision of a Littering Enforcement service by external providers.
- 3.2 Unfortunately the trial arrangements have not delivered the cost neutral budget position as was expected and therefore an alternative model has been considered with the current contractor (Ward Security).
- 3.3 Following negotiations Ward Security are operating the service at a net zero cost to LBB by providing a credit note to LBB for the difference between labour costs incurred and income received between 1 September 2014 and 31 December 2014.
- 3.4 Under this arrangement LBB would not incur any further costs for the provision of Enforcement Officers to issue Fixed Penalty Notices (FPNs) between this period.
- 3.5 In order to continue to deliver a littering enforcement function from 1 January 2015 at net zero cost, Ward Security have proposed to continue delivering the service but on a contractual basis concurrent with the existing Parks Security service, which they are contracted to provide until 31 March 2020.
- 3.6 To enable the arrangement to continue on a contractual basis –coterminous with the Parks Security contract - it is proposed to extend and vary the existing Parks Security contract.
- 3.7 Back in 2009 LBB tendered a Town Centre Wardens Contract in conjunction with the Parks Security contract the. This contract included the requirement to deliver a service whereby officers would issue Fixed Penalty Notices where individuals were in breach of the requirements of the Clean Neighbourhood and Environment Act, including for littering and dog fouling.
- 3.8 At the time the bid was received by the market for the Town Centre Wardens contract were not proceeded with and this element of the contract was not awarded. However, given the service and financial benefits to the Council of the latest proposal from Ward Security it is proposed to extend and vary the Parks Security contract to include elements of the Town Centre Community Warden contact to Ward Security from 1 January 2015 to 31 March 2020 at an annual net zero cost to LBB.

Proposal

A summary of the Ward Security Proposal is as follows:

- 3.9 That the service is delivered on a seasonal basis and concentrated around peak hours and events to make it more effective, with the focus being on days that the town centres in the borough are most busy. It is therefore proposed that this service will run from a Tuesday to Saturday capturing market days and rush hours.
- 3.10 It is also proposed that two full time Enforcement Officers are worked in conjunction with the Parks Security Contract so that there is a greater potential of coverage particularly during winter months when the parks are not as busy.
- 3.11 In addition to this it is proposed that the team are supplemented seasonally with two additional officers for 72 days of the year. These will be the peak seasonal times for people to be in the street and causing littering.

- 3.12 The estimated average cost per month for the provision of this service by Ward Security is £10,750, inclusive of administrative support and management supervision. This will be paid to Ward Security monthly in arrears.
- 3.13 Ward Security will bill LBB for the hours worked and in return LBB will retain the income received from the FPNs paid. Should the level of income received from FPNs not equal the cost of the labour paid to Ward Security then Ward Security will provide a credit note to LBB for the difference.
- 3.14 In addition, both SS&GS management and Ward Security Management have engaged with the Parking Services team who have demonstrated the ability of linking the issuing of FPNs for littering and other enforcement activities with the parking enforcement system, thereby reducing the level of administration required by streetscene and finance staff. Ward Security have therefore been able to reduce current cost of Supervision and Administration.
- 3.15 The introduction of the electronic handheld devices used by Parking Services will greatly improve the reconciliation process and the accuracy of the data for management and audit purposes.
- 3.16 A one-off set up cost of £2k for four hand held devices is required and this can be met from within the street regulation budget. There will also be on-going costs of £2.2k for year 1 and £1k per annum from year 2 onwards, for the parking system licences and stationery. Ward Security have agreed to meet these costs from year 2 onwards.
- 3.17 There are no one-off costs for the purchase of handheld devices as they will be allocated from existing parking equipment stock.
- 3.18 LBB will continue to manage the process of taking offenders who do not pay through the court process.

Opportunities for further developments

- 3.19 Ward Security will be developing an option for them to take over the full management of the service, including collection of income and managing the court process.
- 3.20 Ward are also keen to expand the functions provided within the contract to potentially deliver other functions for the Council. These options will be investigated further and are linked to the report on Commissioning within the Street Scene and Green Space Division also on this agenda.

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 As reported in the budget monitoring report elsewhere on this agenda, the on-street enforcement service is projecting a net deficit of £20k for 2014/15. This is being funded from projected underspends within other areas of the portfolio. The service has been running at a net nil cost to the Council from 1st September 2014.

- 5.2 This report is proposing to extend and vary the existing Parks Security Contract to include the issuing of Fixed Penalty Notices at a net zero cost to the Council. The total estimated value of this extension, from 1st January 2015 to 31 March 2020, will be £677k which will be funded by the income.
- 5.3 There will be one-off set up costs for the parking system module of £2k plus running costs of £2.2k for year 1 to cover the licences and stationery costs. This will be met from the Street Regulation budget. From year 2, the annual running costs of £1k will be met by Ward Security.
- 5.4 The use of the hand held equipment directly linked to the parking system will greatly reduce the amount of staff time within the streetscene and finance teams required for the monitoring and management of this service. As mentioned above, the use of the system will also improve the reconciliation processes and the accuracy of data.

6. PROCUREMENT

- 6.1 Preliminary discussions with the current providers of this service and the Parks Security contract (Ward Security Ltd), seem to indicate a good opportunity for improvement in service and a reduction in cost if we consider treating this service as a zero net cost contract, with the service provider taking the risk on the successful payment of the FPNs issued.
- 6.2 Because of the way the notice/tender for Town Centre Community W ardens was placed back in 2009 there would appear to be an opportunity to extend and vary the Parks Security contract to include a range of these service in a way which was provided for in the original Contract Notice and Tender Process, this provides an opportunity to consider these matters in a way which is in compliance within the EU Procurement Regulations.
- 6.3 As the contractor is putting himself at risk in terms of the payment, we don't believe this provides him with any additional economic advantage beyond that envisaged in the scope of the original process. This reduces the opportunity for challenge on the intended action.

7. LEGAL IMPLICATIONS

- 7.1 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.
- 7.2 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.
- 7.3 The arrangement from 1 September 2014 to 31 December 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 has been sought under CPR 23.7 and 13.1.
- 7.4 It will be necessary to adapt the existing contract to provide for this service. This can be done quickly upon confirmation that this arrangement is to be adopted

8. PERSONNEL IMPLICATIONS

- 8.1 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.

Non-Applicable Sections:	
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> <p>On Street Enforcement. Report No. ES14027. 25 March 2014</p>