

Appendices: 1



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	ENVIRONMENTAL ENFORCEMENT CONTRACT
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	21 June 2017
Key Decision:	YES
Within Policy:	YES
Policy Document:	NO
Directorate:	Customers and Communities
Accountable Cabinet Member:	Councillor Mike Hallam
Ward(s)	All Wards

1. Purpose

- 1.1 To seek agreement from Cabinet to procure an environmental enforcement contract, through which a third party contractor and its staff would issue fixed penalty notices on behalf of the Council in respect of littering and other environmental misdemeanours.

2. Recommendations

- 2.1 That Cabinet agree to the procurement, at no direct cost to the Council, of an environmental enforcement contract, that entails the issue of fixed penalty notices for littering and other environmental misdemeanours, and includes an option for the provision of other enforcement services, as set out in the draft service schedule document attached at Appendix 1.
- 2.2 Further to recommendation 2.1, that Cabinet delegate authority to the Director of Customers and Communities, in consultation with the Borough Secretary and the Cabinet Member for Environment, to select a contractor and award the aforementioned contract for a maximum period of three years, with an option to extend for a further period of up to two years, following the procurement process.

- 2.3 Delegate authority to the Director of Customers and Communities to authorise any contractor appointed pursuant to paragraph 2.2 and employees of the contractor, to issue fixed penalty notices on behalf of the Council in accordance with the contract, where relevant legislation permits such authorisation.

3. Issues and Choices

3.1 Report Background

- 3.1.1 Local authorities have a range of legal powers to deal with environmental offences. A number of these powers include the ability to issue fixed penalty notices. These sanctions have been shown to be a quick and effective way to deal with offences such as littering and fly tipping.
- 3.1.2 Traditionally local authority officers have been authorised to issue fixed penalty notices. In Northampton, the majority are issued by Neighbourhood Wardens and Park Rangers. However, it is possible for the local authority to authorise appropriately trained contractors to issue fixed penalty notices in relation to certain offences.
- 3.1.3 A number of contractors offer a service where their staff will issue fixed penalty notices and administer the mechanism for payment on behalf of the local authority.
- 3.1.4 An environmental enforcement pilot, similar in nature to the service proposed in this report, was carried out last year (2016). Evaluation of that pilot was positive in terms of improved cleanliness in the town centre.
- 3.1.5 In addition to the aforementioned pilot, market research was carried out, which entailed gathering information from a range of businesses in the environmental enforcement industry. This enabled the development of an understanding of the types of services and delivery models that the market has an appetite to provide.
- 3.1.6 Based on the pilot and the market research exercise, it is proposed that a robust process is now undertaken to procure an environmental enforcement contract for the issue of fixed penalty notices for littering and other environmental misdemeanours.
- 3.1.7 Appropriately qualified and experienced staff employed by the contractor would be authorised to issue fixed penalty notices for littering under the Environmental Protection Act 1990 as amended by the Clean Neighbourhoods and Environment Act 2005 with the flexibility to extend the service to the issuing of fixed penalty notices for waste and fly tipping offences under the same legislation.
- 3.1.8 The proposed delivery model, would permit the Council's appointed contractor to collect income from fixed penalty notices to fund the service, therefore enabling the service to be provided at no direct cost to the Council.

- 3.1.9 A number of the contractors offer additional services, including fly tipping enforcement and patrols of hotspots. These services may be funded by direct payment from the local authority or from the receipts from fixed penalty notices.
- 3.1.10 The proposed contract length is three years with option to extend for a further period of up to two years.
- 3.1.11 The draft Service Schedule is outlined in appendix 1.

3.2 Issues

- 3.2.1 The pilot indicated that dedicated enforcement was able to deliver a significant number of fixed penalty notices. Anecdotal information indicates that the pilot was effective at reducing the level of littering in the town centre. It is proposed to undertake some baseline monitoring of litter levels over the coming months to enable to effectiveness of the planned service to be evaluated.
- 3.2.2 The specification of the service will be written to allow flexibility to add further services during the lifetime of the contract.

3.3 Choices (Options)

- 3.3.1 Cabinet may choose to agree to the recommendations of this report and in doing so will gain the benefits of an effective environmental enforcement service, at no direct cost to the Council.
- 3.3.2 Cabinet may instead choose to keep environmental enforcement entirely in-house. This is a tried and tested approach and has the benefit of being embedded within an integrated service. However it is more costly and less effective, and may be unsustainable in the future given reductions in the Council's overall budget.
- 3.3.3 Cabinet could choose not to undertake enforcement action at all. This could achieve a revenue saving against the current service model but would be likely to have a negative impact on matters such as cleanliness and safety in the town. It would also forgo the benefits that could be achieved from the delivery model proposed in this report.
- 3.3.4 Cabinet could decide to ask for other ways of delivering environmental enforcement activity to be identified, developed and brought forward for its consideration.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The proposed service is within existing policy. It is outlined with the Corporate Plan priority of 'Protecting our Environment', which includes the commitment

to a zero tolerance approach to fly tipping and dog fouling supported by third party enforcement.

4.2 Resources and Risk

- 4.2.1 The proposed operating model involves the selected contractor utilising income from fixed penalty notices to fund the service and therefore will enable the service to be provided at no direct cost to the Council.
- 4.2.2 Surpluses generated may be either re-invested in the service and/or be taken, at our discretion, as income to the Council to fund other environmental enforcement activity or to reduce the cost of other aspects of the environment service.
- 4.2.3 The proposed contract value is anticipated to be in the region of £750,000, although this figure may vary up or down depending on the final details of the agreement entered into.
- 4.2.4 Neighbourhood Wardens and Park Rangers will continue to serve fixed penalty notices so the level of revenue from this source is not likely to be affected.
- 4.2.5 The specification and future contract documents will be drafted with appropriate safeguards to ensure that the arrangement does not expose the Council to any financial cost regardless of the level of income generated by the contract.
- 4.2.6 If the model proves to be successful it would have the potential to open opportunities for restructuring of the in-house service with the resultant savings.

4.3 Legal

- 4.3.1 The type of operating model we are seeking to procure constitutes a Concessions Contract and is therefore subject to an OJEU threshold of £4,104,394. The value of the proposed environmental enforcement contract is anticipated to be in the region of £750,000. Given the contract value, the proposed procurement process will entail seeking expressions of interest from the market.
- 4.3.2 In relation to fixed penalty notices **for certain environmental offences and misdemeanours**, legislation specifically permits the Council to authorise people in addition to their own officers as 'authorised officers' for the purpose of issuing fixed penalty notices. In these cases, the following may be authorised officers for the purposes of issuing fixed penalty notices:

Any person, who in pursuant of arrangements made with the Council, has the function of giving such notices and is authorised in writing by the Council to perform that function; and

Any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.

- 4.3.3 Therefore, staff employed by a third party can be authorised to issue certain types of fixed penalty notices on behalf of the Council.
- 4.3.4 The contract specification may only include the issue of fixed penalty notices by the contractor in relation to those offences that the Council is able to authorise a third party to issue fixed penalty notices for.
- 4.3.5 The specification of the contract will also need to include controls to ensure the suitability and capability of the staff concerned to issue fixed penalty notices and carry out any other enforcement activity on behalf of the Council.

4.4 Equality and Health

- 4.4.1 An equality impact assessment has been carried out and the process will be repeated before the contract is let.

4.5 Consultees (Internal and External)

Legal Services
Finance
Neighbourhood warden and park ranger team

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The proposed service is within existing policy. It is outlined with the Corporate Plan priority of 'Protecting Our Environment' and the commitment to a zero tolerance approach to fly tipping and dog fouling.

5. Background Papers

- 5.1 Litter Strategy for England H M Government April 2017
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/607747/litter-strategy-for-__england-2017.pdf

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