

Report of the Executive Director

ENVIRONMENTAL ENFORCEMENT- PRIVATE CONTRACTOR1. Purpose of report

To seek approval for a qualified private contractor to be appointed to undertake Environmental Enforcement on a trial basis and to increase the cost of a Fixed Penalty Notice for littering.

2. Background

The Council's Neighbourhood Warden service is responsible for undertaking environmental enforcement with regards littering and dog fouling. The service is currently comprised of two full time equivalent posts (one post is a job share with half the post currently vacant).

The Neighbourhood Warden role is varied and includes other duties such as dealing with stray dogs as well as the educational aspect of environmental enforcement. The result is that proactive enforcement on a programmed scale has been limited.

Following the appropriate due diligence processes it is proposed to appoint a suitably qualified contractor to compliment the work of the Neighbourhood Wardens. The contractor would undertake environmental enforcement on behalf of the Council. It is proposed that this will be on an initial twelve-month trial basis.

To make the proposal viable it is proposed that the current Fixed Penalty Notice charge of £75, reduced to £50 on early payment, for a littering offence is changed to £100 with a reduced charge of £75 for early payment.

Further information on the proposal is contained within the appendix.

3. Financial implications

There will be no cost to the Council.

Recommendation

The Committee is asked to:

- 1. RESOLVE that a suitably qualified contractor be appointed to undertake Environmental Enforcement on a twelve-month trial, with an option to extend for a further twelve months, in consultation with the Head of Environmental Services and the Chair of the Environment and Climate Change Committee.**
- 2. RECOMMEND that the Finance and Resources Committee increase the cost of a Fixed Penalty Notice for littering to £100 with a reduced early payment option of £75.**

Background papers Nil

APPENDIX

1. Background

It is widely accepted that environmental offences can adversely impact on the local environment and can also influence how attractive areas are to residents, workers, visitors, local businesses and their trade. Ultimately, it can affect how safe and happy people feel about living in an area.

Responsibility for environmental enforcement is assigned to the Neighbourhood Wardens Service, which sits within the Environmental Services Department. An array of duties are undertaken by the Council in order to maintain the cleanliness of the local environment, with an objective of driving down litter and reducing fly-tipping. The Council recognises this requires a combination of education and enforcement of environmental legislation as identified in the Council's Litter Strategy.

This report sets out proposals to deploy a suitably qualified contractor to provide uniformed enforcement officers and the necessary infrastructure in order to develop a dedicated Environmental Enforcement Team that has the purpose of undertaking littering and dog fouling enforcement duties across the district.

The report seeks approval to enter into a twelve-month pilot scheme with a private sector enforcement provider in order to increase the amount of enforcement activity that is undertaken in relation to littering and dog fouling offences across the Borough.

The contract/agreement will be for the provision of services to issue fixed penalty notices under Section 87/88 of the Environmental Protection Act 1990 (EPA) regarding littering, chewing gum and smoking related litter and under the Dogs Fouling of Land Act 1996 with regards dog fouling.

As part of the proposal process, it recommended that the Fixed Penalty Notice fees for littering offences are increased from £50/£75 to £75/£100.

2. Litter strategy

In June 2021 the Council adopted its Litter Strategy. The strategy highlighted that reducing littering is achieved through 3 strategic complimentary elements. These being:

- Bin infrastructure: Having bins located in strategic locations in the Borough
- Education: Suitable educational and promotional campaigns
- Enforcement: Officers authorised to issue Fixed Penalty Notices for littering

The use of an external partner to undertake environmental enforcement would be complimentary to the Council's Litter Strategy and assist in reducing the amount of litter in the Borough.

3. Neighbouring authorities

The use of external agencies is not something unique to Broxtowe Borough Council. Three other Nottinghamshire District Councils (Rushcliffe Borough Council, Newark and Sherwood District Council and Ashfield District Council) are already using or are about to start using external agencies to undertake environmental enforcement on their behalf.

It is recognised that these authorities have had a positive experience with partnership working in relation to environmental responsibilities. Partnership working is considered as a viable option in tackling and raising awareness of Environmental Crime.

4. Operating Model

The initial investigations made from the market providers appear that the deployment of employees in an area is based on:

- 1 x Team Leader
- 4 x Enforcement Officers
- 10 hour shifts
- Working 4 days on and four days off
- 7-day coverage
- PAYE-paying above living wage

Any agreement reached would be overseen by the Waste and Climate Change Manager. However, the appointed contractor will ultimately be responsible for the provision and ongoing staff management as would be agreed within the service level agreement.

In accordance with the relevant legislative powers and normal practice, the appointed contractor on behalf of the Council, would be authorised to undertake aspects of the Council's environmental enforcement. Whilst the authority and responsibility for such action will always remain with the Council, the appointed contractor will undertake the delivery on the Councils behalf, including;

- Staffing, uniforms and IT
- Equipment (Handheld Device, body worn cameras and mobile phones)
- Company vehicle
- Patrols and hotspot identification
- Issue of Fixed Penalty Notices
- Correspondence relating to none-payment
- Witness statements and the provision of evidence
- Call handling and complaint management
- Collecting and reconciling Fixed Penalty Notice payments
- Prosecution files compilation and management
- FOI requests concerning Fixed Penalty Notice figures and revenue generated
- Performance report management

5. Financial Implications

All Fixed Penalty Notice revenue would be collected and retained by the appointed contractor. The payment mechanism ensures the service will not cost the Council any money and furthermore, no budget will be needed by the Council during the pilot period as the contractor will offset all service costs using the revenue collected.

There will be no target for the number of Fixed Penalty Notices that need to be issued each day/week by operatives. However, indications from the discussions which have taken place with service providers are that based on a 75% payment rate that to deliver a sustainable service in general terms around 74 Fixed Penalty Notices will need to be issued per week.

Based on this calculation a twelve-month pilot could expect 3,848 Fixed Penalty Notice's to be issued. At just over 75% payment rate this equates to 2,860 paid Fixed Penalty Notices per annum and estimated annual revenue total of £214,500 (based on all paying £75).

From initial discussion it is anticipated that the appointed contractor will retain 90% of the income generated and pay Broxtowe Borough Council 10% of all income generated at the end the month of each business quarter.

The Council will not be liable should the appointed contractor not meet the expectations indicated. The agreement would be based on nil cost to the Council and should the Council terminate the contract with the appointed contractor there will be no cost applied to Broxtowe Borough Council.

The table below shows an indicative financial breakdown of the estimated revenue and costs together with the key positive outcomes and risks of a twelve-month pilot. It should be noted that £214,500 in the information below is not profit to the contractor as these funds will cover their employee and set up costs.

Key Positive Outcome	Potential Concerns	Potential Financial Costings / Benefits
<p>No upfront service costs for the Council</p> <p>This offers a cost neutral service to the Council.</p> <p>The Council receives a guaranteed surplus in revenue, which can be re-invested into further Environmental projects.</p> <p>Financial risks borne by the contractor</p>	<p>May not achieve enough Fixed Penalty Notice revenue to make the pilot viable.</p> <p>The Council only receive 10% of all income from paid Fixed Penalty Notices.</p>	<p>55 paid FPNs x £75.00 = £4,125 per week</p> <p>Total Collected Revenue = £4,125.00</p> <p>Total Surplus in Revenue</p> <p>90% of £4,125 = 3,712.50 to contractor per week.</p> <p>10% of £4,125 = £412.50 per week to BBC.</p> <p>Twelve-month Pilot - Total Revenue equates to £214,450 per annum</p> <p>90% of £214,500.00 = £193,050 to private contractor per annum</p> <p>10% of £214,500.00 = £21,450.00 per annum to BBC.</p>

6. People and Property

There will be no additional Council resources required to enable the contractor to undertake environmental enforcement duties. The appointed contractor will be responsible for undertaking all administrative (back office) functions relating to serving and issue of Fixed Penalty Notice’s including sending reminder/warning letters, reviewing and preparing evidence for court. Where a case does progress to court the evidence bundle will be prepared by the contractor and passed to the Council’s Legal Services Department. This will enable the Council’s Legal Services to prosecute as appropriate with little or no case intervention and preparation.

The outsourcing proposal is not intended to result in any job losses/redundancies and focuses on enhancing the services provided through the Environmental Services Department.

The typical responsibilities to be undertaken by both the Council and by the contractor are set out below:

Appointed Contractor:

- Supervision of officers
- Provide authorised officer identity cards to all Environmental Enforcement Officers
- Provide suitable uniform
- Provide all equipment to ensure successful issue of Fixed Penalty Notice's including all of the mobile technology and Body Worn Video in accordance with statutory requirements.
- Ongoing Training and development of Environmental Enforcement Officers
- Disclosure and Barring Service (DBS) Check
- Provide workstations for administrative officers employed by the contractor
- Manage and administer the appeals process Contractor
- Ensure Enforcement Officers carry out enquiries to ensure accurate identity details have been obtained from offenders before issue of FPNs
- Provide statistical information and other reports, including equality monitoring.

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- Oversight and governance of contractual arrangements/service level agreements
- Review of Performance indicators in line with corporate/service targets
- The Council will not incur charges throughout the partnership working process and throughout the pilot/scheme period with contractor
- The contractor will not require use of Council buildings.

7. Next Steps

The Executive Director and Head of Environmental Services have undertaken preliminary enquiries with regards the services offered by private contractors but further due diligence work would still be required before any agreement could be entered.

The contractors which have been approached have advised that they would be agreeable to deliver a pilot scheme on a twelve-month trial basis. The timescales for this could be based on a 6-8 week mobilisation period from the point of award.

Any such enforcement work would be delivered in conjunction with the continued work undertaken by Environmental Services. Before mobilisation of the service a comprehensive enforcement publicity campaign would be undertaken. Any publicity work will reinforce the key Council values that any such enforcement activity is not undertaken lightly, or to generate income, but as a necessary driver to make and keep our district clean.

Before finalising any agreement, it may be considered appropriate to invite the selected contractor to a meeting for Members to gain greater insight into that organisation.

8. Recommendations

It is proposed that following appropriate due diligence that authority be delegated to Executive Director, in conjunction and in consultation with the Chair of the

Environment and Climate Change Committee, to appoint a private contractor to undertake environmental enforcement. The appointment will be based on the following parameters:

1. To enter into a twelve-month pilot scheme to increase provision for environmental enforcement throughout the district. With the option to extend the pilot for a further 12 months.
2. The contract with the provider is at zero cost to the Council and will generate 10% income of all Fixed Penalty Notice's resulting in payment.
3. As well as littering and dog fouling the contract/agreement is flexible to include additional enforcement activity as deemed appropriate i.e. Fly tipping enforcement.
4. The providers take a proportionate approach in accordance with the legislation.
5. That if successful, proposals for a more permanent arrangement are developed towards the end of the trial.

In addition to the above it is proposed to increase Fixed Penalty Notice Fees for Littering to £75/£100.

9. Future Procurement

Following the twelve-month pilot any long term contract would be subject to a formal procurement exercise.