

WEST NORTHAMPTONSHIRE COUNCIL CABINET

13 FEBRUARY 2024

CABINET MEMBER FOR COMMUNITY SAFETY AND ENGAGEMENT, AND REGULATORY SERVICES – COUNCILLOR DAVID SMITH

Report Title	Provision of an Environmental Enforcement Contract to supplement the work of the Environmental Crime team
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List of Approvers

Monitoring Officer	Cath Whitehead	21 st January 2024
Chief Finance Officer (S.151)	Martin Henry	19 th January 2024
Other Director	Stuart Timmiss	20 th December 2023
Communications Lead	Bethany Longhurst	11 th January 2024

List of Appendices

None

1. Purpose of Report

- 1.1. The report is being brought to Members to seek their approval to allow the Council to seek tenders for a new Environmental Enforcement Contract in relation to Environmental Crime. The report aims to explain to Members the value to the Council in seeking such a third-party contract, at no cost to the Council, to complement the work done by the Neighbourhood Wardens. The environmental enforcement contract would allow the third-party contractor to issue fixed penalty tickets for low level environmental crimes such as littering and Public Spaces Protection Order breaches.

2. Executive Summary

- 2.1 Environmental crime offences are committed daily by members of the public throughout the whole of West Northamptonshire. The offences, which include littering and offences against the current Public Spaces Protection Orders (dogs) are enforced by a small team of Neighbourhood Wardens and are complemented by a current enforcement contract which is held by Kingdom LA Support.
- 2.2 The current environmental enforcement contract comes to an end in March 2024 and currently covers the Northampton area only. The report sets out the reasoning for seeking to tender the contract on a no cost (concession) basis to support environmental crime work across the whole of West Northants, including enforcing the recently implemented Public Spaces Protection Orders.

The issuing of fixed penalty tickets for low level environmental offences would be carried out by the third-party contractor on behalf of West Northants Council.

3. Recommendations

- 3.1 That Cabinet agree to the procurement, at no anticipated direct cost to the Council, of an environmental enforcement contract, that specifies the issuing of fixed penalty notices for littering and other environmental misdemeanours and includes an option for the provision of other enforcement services.
- 3.2 That Cabinet delegate authority to the Executive Director of Place & Economy, in consultation with the portfolio holder for Regulatory Services and the Head of Environmental Protection & Environmental Crime to select a suitable contractor and award the aforementioned contract for a period of up to five (5) years, with an initial contract of three (3) years, with an option to extend for a further period of up to two (2) years in annual increments (3+1+1), following the procurement process.
- 3.3 That Cabinet delegate authority to the Executive Director of Place & Economy, to allow the contractor to issue fixed penalty notices on behalf of West Northamptonshire Council, in accordance with our Enforcement Policy.

4. Reason for Recommendations

- 4.1 The recommendations proposed will allow the Council to continue an effective enforcement service across the whole of West Northants.
- 4.2 The recommended course of action is the most cost-effective for the Council to ensure that effective enforcement to complement the work undertaken by the current Neighbourhood Wardens.
- 4.3 The Council (or customers) will receive benefit from the option proposed; enforcement and deterrent of environmental crime supports the Live Your Best Life Ambition of a cleaner and greener environment.

- 4.4 Supporting the recommendations of the report ensure consistency with previous decisions to employ an external contractor to carry out face to face enforcement in urban areas but allows expansion and consistency across West Northants.
- 4.5 Supporting the recommendations is in line with Council Enforcement Policy and the Littering and Fly Tipping Charters approved by Members and currently in place.
- 4.6 The proposal has the potential to generate an amount of income for WNC through enforcement carried out by the third party.

5. Report Background

- 5.1 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 (FPN's). These sanctions have been shown to be a quick and effective way to deal with offences such as littering and fly tipping.
- 5.2 The Council currently undertakes a range of enforcement and investigation options to try and tackle Environmental Crime including offering offenders the option to pay an FPN to discharge their liability for the offence.
- 5.3 Traditionally, local authority officers have been authorised to issue FPN's, however many Councils now contract third parties to carry out some of the enforcement work on their behalf as an additional complimentary resource.
- 5.4 In West Northants, the majority of in-house FPN's are issued by Neighbourhood Wardens as part of their community support role. However, it is possible for the local authority to authorise appropriately trained contractors to issue FPN's in relation to certain offences.
- 5.5 A number of external contractors offer a service where their staff will issue FPN's and administer the mechanism for payment on behalf of the local authority.
- 5.6 An environmental enforcement pilot, similar in nature to the service proposed in this report, was carried out in 2016 in the Northampton area. Evaluation of that pilot was positive in terms of improved cleanliness in the town centre.
- 5.7 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.
- 5.8 Based on the pilot and the market research exercise, a contract was issued to deal with environmental enforcement and the contractors were authorised to issue FPN's for littering and other environmental misdemeanours.
- 5.9 An external contractor has been employed since 2017 and in the last 12 months has issued 1,950 FPN's on behalf of the Council, operating within the former Northampton Borough area only.

- 5.10 Due to the Covid restrictions, a gap in provision was experienced and the contract has been extended to ensure the terms of the contract were fulfilled and that a five-year provision was in place.
- 5.11 A new contract would allow appropriately qualified and experienced staff employed by the contractor to issue FPN's 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.
- 5.12 The contract would also allow enforcement of the PSPO (dogs).
- 5.13 The proposed service would operate across the whole of West Northants.
- 5.14 The proposed delivery model, would permit the Council's appointed contractor to collect income from FPN's to fund their service, therefore enabling the concession contract to be provided at no direct cost to the Council.
- 5.15 A proportion of the income would be paid to WNC each quarter.
- 5.16 A number of the contractors offer additional services, including fly tipping enforcement and patrols of hotspots. These additional services could be funded by direct payment from the local authority or from the receipts from FPN's, should it be decided they are required.
- 5.17 Any contract specification will include a requirement for accommodating technological progress and advances. This may well include CCTV or AI as these technologies develop.
- 5.18 The proposed concession contract length is to be initially 3 years, with the option to renew for a further two years in one-year increments (3+1+1).

6. Issues and Choices

- 6.1 The pilot and current contract demonstrated that dedicated enforcement was able to deliver a significant number of FPN's. Anecdotal information indicates that the issuing of FPN's by a third party is effective at reducing the level of littering in the town centre. In addition, high visibility patrols are known to have a significant deterrent effect on those committing environmental crime, such as littering and breaches of the PSPO.
- 6.2 The number of FPN's reduced initially in the period immediately after COVID. However, the number of offences witnessed has been increasing over the last few months, and the introduction of a reinvigorated contractor is hoped to be beneficial.
- 6.3 The specification of the service will be written to allow flexibility to add further services during the lifetime of the contract. This will be made clear to bidders.
- 6.4 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.

- 6.5 Cabinet may instead choose to keep environmental enforcement entirely inhouse. 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 in terms of low-level enforcement (and the numbers of FPN's issued) and may be unsustainable in the future. The Neighbourhood Wardens currently carry out a community focussed role, and enforcement is just one part of their duties, meaning the impact of enforcement for the lower-level environmental crimes can be diluted. The number of offences able to be dealt with through enforcement would reduce significantly if the service remained in house only.
- 6.6 Cabinet could choose not to undertake enforcement action at all. This would achieve a negative revenue impact against the current service model but would also be likely to have a negative impact on matters such as cleanliness and safety in the towns and villages of West Northants. It would also forgo the benefits that could be achieved from the delivery model proposed in this report, supporting the whole of West Northants with a robust enforcement model.
- 6.7 The Council is unable to provide additional resources to support enforcement of other legislation such as the dog control PSPO, which was well supported by members and public alike and is now in place across the whole of the West, as well as the Littering and Fly-tipping Charters. Choosing to take no enforcement action at all would not align with the Council Enforcement Policy.
- 6.8 The provision of an external service would also offer benefits in terms of a high visibility uniformed patrol across the area, which can have an additional deterrent effect on a wider reaching range of crime and anti-social behaviour.
- 6.9 Cabinet could decide to ask for other ways of delivering environmental enforcement activity to be identified, developed and brought forward for its consideration.
- 6.10 An Equalities Screening Assessment has been submitted, but it is anticipated that the equalities impact will be determined as neutral. All enforcement is carried out with no negative impact on any of the protected groups.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.1 Letting a concession-based contract would allow a large proportion of the face-to-face part of the lower level environmental enforcement service to be carried out remotely from the day-to-day work of the wardens and ensure a relatively high number of fixed penalty tickets to be issued. This work would bring environmental benefits, as well as additional income to support the delivery of the service, as a proportion of the fines would be paid directly to the Council.
- 7.1.2 Provision of an external contractor to carry out this work is more cost effective than providing an in-house service at the current time. This will be reviewed at intervals within the contract to determine if an in-house service would be viable at the end of the contract period.

- 7.1.3 The letting of the contract on a concession basis would ensure that an income was provided to the Council, with the risks of providing a dedicated enforcement service being met by the third party.
- 7.1.4 The retention of a contract would have a positive impact on revenue budgets, as an income would be generated. Whilst a small surplus is likely to be generated, the income is legally required to be ringfenced to support the delivery of the service, and is not anticipated to be significant to warrant inclusion in the in the MTFP.
- 7.1.5 There is no expenditure predicted by entering into a third-party contract, other than internal costs for monitoring and procurement of the service. This work is built into existing service roles. There will be no payments made by WNC in terms of the contract as no net expenditure is predicted.
- 7.1.6 There are no implications for current enforcement staff, as their current roles complement the work of the current contract holder.
- 7.1.7 There are no negative resource or financial implications arising from the proposals. The proposed operating model involves the selected contractor utilising income from FPN's to fund the service and therefore will enable the service to be provided at no direct cost to the Council, whilst generating a small income. The surplus value to WNC will be determined through the contract tendering process
- 7.1.8 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. Legislation and statutory guidance is clear that income from FPN's must be reinvested in work associated with environmental crime. This funding is ring fenced and cannot be allocated elsewhere.
- 7.1.9 The proposed contract value is anticipated to be in the region of £750,000, although this figure may vary depending on the final details of the agreement entered into. Lack of a previous enforcement contract in the rural areas means that this figure cannot be more accurately predicted.
- 7.1.10 Neighbourhood Wardens will continue to serve FPN's in addition to the external service so the current level of revenue from this source is not likely to be affected.
- 7.1.11 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.
- 7.1.12 If the model proves to be successful it would have the potential to continue to support the Environmental Crime service whilst an upcoming restructure is completed. This could result in savings throughout the service.

7.2 Legal

- 7.2.1 The type of operating model we are seeking to procure constitutes a Concession Contract. The value of the proposed environmental enforcement contract is anticipated to be in the region of £750,000. More exact figures cannot be stated at this stage, as this will be influenced by the approach and level of activity the appointed contractor may take.
- 7.2.2 Given the contract value, the proposed procurement process will entail seeking expressions of interest from the market. Procurement colleagues will be supporting the procurement, based on the value of the contract and in accordance with Council policy. This report has been reviewed by procurement who are satisfied with the content.
- 7.2.3 In relation to FPNs 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 FPN's: 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. Any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices can serve such notices. Regulatory Services will retain oversight of this provision.
- 7.2.4 The contract specification may only include the issue of FPN's by the contractor in relation to those offences that the Council is able to authorise a third party to issue fixed penalty notices for. This relates to low level environmental crime and enforcement of the PSPO only.
- 7.2.5 The specification of the contract will include controls to ensure the suitability, training and ongoing capability of the staff concerned to issue FPN's and carry out any other enforcement activity on behalf of the Council.
- 7.2.6 A robust reporting, reconciliation and monitoring scheme will be built into the contract.

7.3 Risk

- 7.3.1 There are minimal risks associated with the proposal. There is no associated risk on the risk register currently, nor is there a need to add an entry to that register.
- 7.3.2 The risk to the Council if the proposal is not supported mainly relates to public health outcomes. Wellbeing ambitions of cleaner and greener spaces, allowing communities to thrive and take pride in their environment are less likely to be developed or maintained, if the contract provision is not supported.
- 7.3.3 Should this proposal not be supported then the positive enforcement culture within WNC will be at risk. FPN's and publication of offences acts as a robust deterrent for some further offences.
- 7.3.4 There is a risk that littering offences will increase if offences are not robustly dealt with. Whilst enforcement action can be and is taken by members of the Neighbourhood Wardens team, the limited resource in that team is simply not able to deal effectively with all low-level environmental crime offences, and priority is given to larger scale offences. Provision of this external service will complement and support that in-house enforcement.

- 7.3.5 Supporting the recommendations of the report ensures consistency with previous decisions to employ an external contractor to carry out face to face enforcement in urban areas, but allows expansion and consistency across West Northants. Removal of that service is likely to be challenged by the public, and supporting the proposal removes the likelihood of complaints being received.
- 7.3.6 There is a risk of adverse publicity associated with the introduction of a new contractor. However, the reputational risk associated with that contract is minimal, as robust process will be in place to monitor the provision of the contract and ensure legislation is complied with. Regulatory Services work closely with our communications colleagues to ensure that positive messages around our enforcement action support the residents of West Northants and our local businesses.
- 7.3.7 The most significant risk identified in terms of the proposal is a lack of appropriate tenders being submitted by interested parties. To mitigate the risk of this, the contract tender will offer some flexibility to allow interested parties to provide additional information in terms of their submissions, which will be weighted accordingly during the procurement process. There are a limited number of specialist companies who could provide this service.
- 7.3.8 There is a risk that selection of an inappropriate contractor would have a detrimental impact on the aims and ambitions of the Regulatory Services teams. This risk will be mitigated with a robust selection process overseen by procurement colleagues and the contract will be monitored during its lifetime.

7.4 Consultation and Communications

- 7.4.1 There has been no statutory or other consultation undertaken in respect of this proposal. The matter is an operational one, which is well supported by the Environmental Crime Manager, the Head of Environmental Protection & Environmental Crime, the Assistant Director for Regulatory Services, the Assistant Director for Waste and the Executive Director for Place & Economy. The current neighbourhood warden team are aware of the intention to seek a tender for this work.
- 7.4.2 Clear communications will be issued to the public to support the introduction of the new contract, and to reinforce the need for active, uniformed patrols and enforcement across the West.

7.5 Consideration by Overview and Scrutiny

- 7.5.1 The current service has not been exposed to consideration by overview and scrutiny; however the recently published Fly Tipping Charter has been considered by that group. The Charter sets out an education and enforcement approach to littering and fly tipping. Provision of an environmental enforcement contract would support the enforcement aspect of the Charter.

7.6 Climate Impact

7.6.1 The introduction of a contractor to provide low level enforcement across the whole of the west will have a positive impact on reduction of litter and fly tipping through visible patrols and issuing of FPN's, therefore improving local environments and supporting communities to take pride in their area.

7.6.2 We will be including requirements within the contract to support the carbon neutral ambitions of the council, including local provision of service where this is possible. We will also include wider social value and sustainability considerations within the tender process.

7.7 **Community Impact**

7.7.1 A positive impact would be felt by the Community in respect of wellbeing and healthy communities aspects with provision of the contract. A visible presence would support cleaner and greener spaces being achieved, and the expansion of the contract to include the whole of the West and the enforcement of the PSPO would ensure that all localities benefit from enforcement to support communities taking pride in their area.

7.7.2 Provision of the contract will support local employment of officers to carry out the service.

8. **Background Papers**

8.1 No background papers are provided.