



Cabinet
14 March 2016

**Report from Strategic Director-
Regeneration and Environment**

For Action

**Report on Tackling Illegal Rubbish Dumping and Litter with
Uniformed Street Patrols**

1.0 Summary

- 1.1 This report sets out proposals to deploy a suitably experienced and qualified contractor to provide uniformed enforcement officers and the necessary infrastructure for the delivery of dedicated enforcement of street scene and environmental offences such as litter, dog fouling, fly-tipping, spitting, fly posting and graffiti at problem areas across Brent.
- 1.2 This will require the contractor to provide a team of experienced and competent enforcement officers, a team leader and adequate administrative support to create a high profile, self-funding enforcement initiative tackling street scene issues across Brent. The primary focus of the initiative in the first instance is to make Brent cleaner and change behaviour towards environmental offences.
- 1.3 Officers propose a one-year pilot contract is entered into with a company called Kingdom Security Ltd, with evaluation taking place throughout, and with a full procurement taking place during the course of that year, should the pilot prove to be successful.

2.0 Recommendations

- 2.1 That Cabinet agree to exempt a pilot contract for the delivery of a uniformed service for the enforcement of street scene and environmental offences in the borough from the requirements of the Council's Contract Standing Orders in respect of conducting a tender process.
- 2.2 That Cabinet approve the proposal to enter into a pilot contract with Kingdom Security Limited for the delivery of a payment-by results, cost-neutral uniformed service for the enforcement of street scene and environmental offences in the borough for a period of 12 months.
- 2.3 That Cabinet note and endorse the proposal to suspend the offer of a reduced payment for early settlement of litter-related Fixed Penalty Notices for the period of the pilot.

3.0 Background

- 3.1 Environmental crime can affect the quality of the local environment and can have an impact on how places look and are perceived. It can also influence how attractive areas are to residents, workers, visitors and investors such as businesses and their trade. Ultimately, it can affect how safe and happy people feel about living in an area.
- 3.2 Departmentally, responsibility for environmental crime enforcement is with the Public Realm Waste Enforcement Team, which sits within the Regeneration and Environment Directorate.
- 3.3 A range of activities are currently undertaken by the council in order to maintain the cleanliness of the local environment and the street scene. A key aim of the council's Waste Enforcement Team is to drive down litter and reduce fly-tipping. This requires consistent enforcement of certain environmental legislation, which to date has been carried out by council staff in a targeted manner, dealing generally with high profile offences.
- 3.4 This proposal aims to build on this by providing additional capacity to undertake the issuing of Fixed Penalty Notices (FPNs) in the borough to achieve zero tolerance, principally in town centres and other high footfall areas.
- 3.4 The Clean Neighbourhoods and Environment Act 2005 (the 2005 Act) gave the Council power to use FPNs for litter offences. Since the introduction of the 2005 Act the Council's available resources have stayed static at a relatively low level. Work is underway to improve the work programme of the current Waste Enforcement Team utilising intelligence driven enforcement and improved procedures, particularly through better partnering with the council's ASB officers and with the Public Realm Contractor, Veolia. However, the Waste Enforcement Team does not have the capacity to provide a dedicated litter enforcement service.
- 3.5 Kingdom Security Limited currently provides services in Harrow, Ealing, Havant, Barnsley, Knowsley, Denbighshire, Birmingham City, Maidstone and Croydon and has been enforcing legislation on behalf of councils for seven years. Officers have entered into discussions with Ealing and Harrow Councils about their partnerships with Kingdom Security Limited. Both councils indicated engaging Kingdom Security Limited to assist with enforcement of environmental legislation has been positive. Based on these discussions, Officers propose delivery of such a service in Brent on a trial/pilot basis. Employing Kingdom on a time-limited trial basis will enable the Council to establish the pilot quickly, and will also provide the opportunity to test (and deliberately benefit from) a cross-border working relationship with the neighbouring boroughs of Harrow and Ealing- both of whom are already working with Kingdom. Specifically, the cross-authorisation of Enforcement Officers, reporting into a regional team leader will deliver significant flexibility and service resilience.
- 3.6 This initiative is part of a recommendation from the Council's recent Scrutiny Task Group that explored solutions for the widespread problem of fly-tipping.
- 3.7 In addition to covering a range of waste and litter issues, the initiative will address particular problems with cigarette litter and paan spitting in town centres. In addition there is a gap between public perception of street cleanliness and actual cleanliness and it is hoped a high profile and visible initiative will also impact on future customer satisfaction surveys.

4 Basic Service

- 4.1 The operating model is 'zero cost enforcement' that pays for itself. It can also support Brent's waste enforcement and ASB teams, carrying out enforcement under the Environmental Protection Act in the public realm (including parks) in relation to:-
- Spitting
 - Littering
 - Fly-tipping
 - Dog fouling
 - Graffiti
- 4.2 The contract would provide the opportunity to deploy a highly visible and robust enforcement response to tackle these growing environmental offence issues whilst maintaining normal service delivery in other areas of work.
- 4.3 The Kingdom Group was formed by former personnel of the Armed Forces and Police who employ the same ethics, skills, experience and protocols of that background to deliver services in private security and investigation and, more recently, a new division supporting local authorities in the delivery of environmental enforcement.
- 4.4 It is expected that the enforcement officers will be deployed to patrol hot spot areas and to issue FPNs to anyone found guilty of committing an environmental offence, e.g. dropping litter or dumping items of waste. The number of enforcement officers to be deployed will be governed by the number of locations experience litter in the borough and how the service operates on the ground.
- 4.5 Recognising the administrative burden associated with issuing the FPNs, the contractor will be expected to provide the following support systems:
- Administrative resources to process fixed penalties;
 - The handling of all enquiries regarding the payment of fixed penalties or appeals received against the notices issued; and
 - Investigation and provision of reports on all complaints made against their officers whilst acting on behalf of the council.
- 4.6 Experience of Kingdom's work in other boroughs suggests that there are very few appeals against tickets issued. Nevertheless, it is important to provide an independent review opportunity and this will be developed as part of the detailed terms of engagement. It is proposed that this is signed off by the Strategic Director of Regeneration & Environment under delegated authority.
- 4.7 The enforcement officers provided by the contractor will carry Brent identification and be authorised as Brent officers for the purpose of enforcement against littering and environmental offence.
- 4.8 The only perceived difference is that that the enforcement officers would be wearing uniform, be wearing overt "body-worn cameras" (to improve payment rates and reduce appeals based on officer conduct) and either overt or covert stab vests for officer safety. The uniform design will be subject to consultation with the Cabinet and signed off by the Strategic Director, under delegated authority, in consultation with the Lead Member.

4.9 Deployment of the enforcement officers would be controlled by a designated council officer who would be able to direct the staff to address issues across the borough. This will be informed through customer reports, by partner organisations and also feedback from Brent staff within our environmental and community safety services. In the first instance, this deployment would need to be primarily intelligence based and revenue-led (targeted at high footfall areas where a significant number of littering offences are likely) in order to ensure a cost-neutral position can be achieved. If and when a strong financial performance has been established, there will potentially be scope to look at other areas of deployment which may not generate such high levels of turnover, but would add value to the current enforcement activity of the Council, such as action against ASB, PSPO support and tackling issues associated with rough sleeping in parks.

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

Brent:

- Provide authorised officer identity cards to all Enforcement Officers working to the direction of Brent.
- Provide stationery and meet postage costs in respect of the service.
- Arrange for Enforcement Officers to be authorised to issue FPNs on behalf of Brent.
- Provide guidance as to areas to be patrolled and times of patrols.
- Provide workstations for administrative officers employed by the contractor (essentially, the Council will be required to provide an administrative base for Kingdom's operatives at the Civic Centre. Such staff will attend on an ad-hoc basis, and such arrangements will be facilitated locally within the Environmental Services Department). Kingdom will be required to sign a licence covering any such ad hoc occupation as set out in paragraph 8.7.
- Manage and administer the appeals process

Contractor:

- Issue FPNs to anyone caught committing an environmental offence.
- Provide fully trained, to Disclosure and Barring Service (DBS) standard, Enforcement Officers, admin support and a senior officer for supervision.
- Provide uniform agreeable to Brent.
- 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.
- Not issue an FPN to a person under the age of 18 or those suspected of suffering mental ill health.

4.11 The contract 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, smoking related litter and spitting.

4.12 Once established- and if successful, the scope of the contract may be expanded during the course of the pilot to incorporate other offences, such as:

- Graffiti and Flyposting – Section 43 of the Anti-Social Behaviour Act 2003
- Dog Fouling – Section 3 Dogs (Fouling of Land) Act 1990
- Exposing vehicles for sale on a road - section 6 of the Clean Neighbourhoods and Environment Act 2005

- Carrying out restricted works on a motor vehicle on a road - section 6 of the Clean Neighbourhoods and Environment Act 2005

4.13 No decisions have yet been taken with regards to locations for initial deployment, although Harlesden and Willesden town centres and Wembley Central, particularly Ealing Road have been suggested. This will be agreed after need is formally validated, and with input from the Waste Enforcement Team and Veolia.

4.14 The number of fixed penalties issued will be closely monitored throughout the period along with assessing how the service is operating on the ground.

4.15 To help to ensure that the service is cost neutral, it is proposed to suspend the offer of a reduced payment for litter-related FPN's for the period of the pilot.

5.0 Customer care

5.1 The contractor's relationship with any members of the public would necessarily be conducted in a professional, courteous, and helpful manner with due care and consideration given to special situations and circumstances. The contractor must ensure that staff employed on the contract wear their ID at all times. In the event of a complaint or dispute arising as to their conduct it would be investigated by the contractor and a report produced to the council. These reports will be regularly monitored and discussed.

6.0 Added Value

6.1 In addition to on-street enforcement, the contractor is also able to provide the following:

- 'No cost' provision of back office support and administration
- Trade waste and residential waste investigations
- Dealing with juvenile offenders and education through schools.
- Delivering a bolt on service aimed at investigating failures to recycle domestic waste correctly.
- Positive contribution to the reduction of street litter by intelligence-led patrols
- Working with the police to target other types of antisocial behaviour.

6.2 Any enforcement activity is the final stage of promoting a cleaner borough, and having a more visible presence will also have a wider impact on littering and other environmental offences across the borough. In addition the Communications Team will ensure that this initiative is a fully integrated part of the messaging in the current 'Love Where You Live' campaign, developing a range of activities to support the initiative and to highlight that any littering is likely to result in a fine.

7.0 Financial Implications

7.1 It is proposed that the pilot contract with Kingdom Security Limited will be on a payment by results, cost neutral basis.

7.2 Kingdom Security Limited's business model is based on income received from the serving of fixed penalty notices in relation to environmental offences. For every valid £80 FPN issued Kingdom Security Limited would receive £46 as a payment from the council. For every FPN paid the council will receive the income. In practice, not all

valid FPNs would in due course be paid, and it would be reasonable for budget planning purposes to assume some level of bad debts.

- 7.3 Initial assumptions by the service, although they would have to be refined, are that four officers would be deployed, each issuing an average of five valid FPNs per day, of which in due course 70% would be collected. Based on these initial assumptions 5,200 valid FPNs would be issued (assuming no weekend working), generating a payment from the council of about £0.24m. The payments to the council, on this model, would be about £0.29m, generating a surplus of some £50,000 over the period of the pilot.
- 7.4 This would need to be tested during the early months of the pilot, in order that a competitive procurement could then take place for the continued provision of the service, assuming that the results of the pilot in that period were considered favourable. Amongst other things this pilot would need to show that the actual collection rate was at least 58% in order for the solution to be cost neutral.
- 7.5 It is proposed that any additional income generated by the initiative would be utilised to fund any additional costs to the council (such as additional legal support to pursue non-payment, etc.) and to support provision of additional equipment for environmental education and enforcement campaigns with Safer Brent Partners

8 Legal Implications

- 8.1 Part IV of the Environmental Protection Act 1990 (EPA) contains powers and duties to enable certain bodies to manage litter and associated environmental issues on the land for which they are responsible. Section 18 of the Clean Neighbourhoods and Environment Act 2005 (CNEA) amends section 87 of the EPA by extending the offence of littering to apply on all types of land, whether public or privately owned, on the land itself or in water. Section 19 of the 2005 Act amending Section 94A of the EPA as insert by Section 22 of the CNEA enables an authorised officer of a litter authority (individuals other than their own employees) to issue Fixed Penalty Notices to a person has committed an offence under the EPA 1990. An authority may use its fixed penalty receipts to spend in the course of enforcement functions under Part 4 of the Environmental Protection Act 1990; section 43 of the Anti-social Behaviour Act 2003; Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005; and such other of its functions as may be specified in regulations made by the appropriate person (any of the authorities functions).
- 8.2 A one year pilot contract with Kingdom Security Ltd is proposed, with evaluation taking place throughout, and with a full procurement to take place during the course of that year should the pilot prove to be successful.
- 8.3 Based on the information set out in the body of the report, the proposed contract with Kingdom Security Limited is a service concession contract. Services concessions contracts fall outside the scope of the existing EU procurement legislation but, it is recommended that if there is a cross border interest in the arrangement, it will be caught under the EU Treaty and so subject to the general obligations of transparency (including a duty to advertise), equal treatment and non-discrimination. Given the nature of services to be provided by Kingdom Security Limited and the short duration of the proposed contract, it is considered that the proposal will not contravene these general duties.

- 8.4 It is considered that the value of the contract to Kingdom Security Limited is likely to be a Medium Value Contract under the Council's Standing Orders (CSO) and Financial Regulations. Contract Standing Order 96(a) provides that for contracts with an estimated value below the EU Procurement Regulations threshold, tenders shall be invited for Medium Value Contracts. However, Contract Standing Order 84(a) provides that subject to compliance with domestic and European legislation, the Cabinet may agree an exemption from the requirement to procure in accordance with Contract Standing Orders where there are "good operational and/or financial reasons". For the reasons detailed in paragraph 8.3 it is not considered there is a breach of domestic or EU legislation. Members are referred to the reasons set out in paragraph 3.5 and will need to consider whether these constitute good operational and / or financial reasons for awarding a one year pilot contract directly to Kingdom Security Limited rather than carrying out a formal tendering process.
- 8.5 The Environmental Protection Act 1990, provides that the litter authority to which a fixed penalty is payable "may make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the authority".
- 8.6 On that basis and in order to deliver a cost-neutral solution, Cabinet is asked to note that the Strategic Director of Regeneration and Environment intends to suspend the offer of reduced payment for litter-related FPN's for the period of the pilot in accordance with Part 4, Paragraphs 2.4 and 2.5 of the Council's Constitution.
- 8.7 As indicated in paragraph 4.9, the council will provide an administrative base for Kingdom Security Limited's staff at the Civic Centre on an ad hoc basis. This will require the Kingdom Security Limited to enter into a licence arrangement governing the occupation of their staff whilst at the Civic Centre.

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