



EXECUTIVE MEMBER DECISION

REPORT OF: Executive Member for Environment

LEAD OFFICERS: Director of Environment and Leisure

DATE: 10 January 2019

PORTFOLIO/S AFFECTED: Environment

WARD/S AFFECTED: All

SUBJECT: Review of the pilot of the Dog Fouling and Litter Enforcement Team

1. EXECUTIVE SUMMARY

In 2017 the Council awarded the contract for Dog Fouling and Litter Enforcement to Kingdom Environmental Services Group Ltd, to be operated as a pilot to be reviewed after 12 months of operation. The contract was put in place following a compliant procurement process. It was advertised as a one year contract to run from 1st October 2017 – 30th September 2018 with two extension options of 12 months. Therefore this extension option is allowed within the terms of the contract and compliant with the original procurement process.

The 12 month review has taken place, and the performance of the team has been found to be satisfactory.

Consideration has been given to bringing the service in-house, but this could not be achieved at zero cost to the Council.

2. RECOMMENDATIONS

That the Executive Member:

Authorises the extension of the Dog Fouling and Litter Enforcement Team contract with Kingdom Environmental Services Group Ltd until the end of September 2019, by which point retendering will have taken place.

3. BACKGROUND

The Council enforces the provisions of legislation relating to littering and dog fouling. In recent years progressive cuts to funding have led to a reduction in levels of enforcement in relation both these areas of legislation, due to the fact that they are discretionary rather than statutory services (i.e. the Council is not *required* to undertake this kind of enforcement).

However, in common with many local authorities, Blackburn with Darwen is facing increasing levels of environmental crime (e.g. littering, fly-tipping and dog fouling) and the community has made it increasingly clear to the Council that it wanted more proactive enforcement in relation to these

matters. In addition, based on experience in envirocrime enforcement, the Council wished to raise the level of public awareness about personal responsibility in relation to envirocrime and littering.

Consequently, the Council researched the possibility of engaging a contractor to undertake dog fouling and litter enforcement on a cost-free basis (i.e. at no cost to the Council). In due course the contract was tendered and Kingdom Environmental Services Group Ltd was appointed to undertake the work.

As the Council had not engaged in this type of arrangement before, the contract was awarded on the proviso that a review would take place after 12 months of operation to determine whether the contract should continue. That review is now due.

4. KEY ISSUES & RISKS

Kingdom Environmental Services Group Ltd commenced operations on 16th October 2017, being embedded within the Public Protection & Environmental Health Service at Davyfield Road Depot. The team comprises 4 FTE enforcement officers, a manager and an administration officer. Officers patrol Borough-wide, focussing on the Town Centre (due to demand) but operating in all areas of the Borough, and the Team's manager is in daily liaison with the BwD contract manager.

Staff were newly appointed from local areas and were trained on site by KESG Ltd personnel.

Under S.87 of the Environmental Protection Act 1990, it is an offence to throw down, drop or otherwise deposit any litter and leave it. The legislation applies to any area in the open air to which the public has access. The offence carries a maximum penalty of £2500 at Magistrates' Court; however, as an alternative to prosecution, the Council can issue a Fixed Penalty Notice (FPN) to the offender. If the offender pays the notice they have discharged their liability for the offence. If they do not pay, they are liable to prosecution.

The FPN amount is £75 in Blackburn with Darwen, and has not been raised recently in spite of legislation changes permitting increases.

Under S.67 of the Anti-Social behaviour, Crime and Policing Act 2014, it is an offence to breach the terms of a Public Space Protection Order. As there is a PSPO in place across the Borough which prohibits allowing a dog to foul without picking up, this constitutes a breach of S.67. The offence carries a maximum penalty of £1000 at Magistrates' Court, but once again can be dealt with by means of an FPN, in this case for £100.

Early in the contract, a decision was taken to extend enforcement to illegal smoking (i.e. smoking indoors and in works vehicles, such as taxis), as this has been enforced by officers from Public Protection & Environmental Health since its introduction. S.7 of the Health Act 2006 makes it an offence to smoke indoors in a public place, and also in works vehicles. The maximum penalty at Magistrates' Court for this offence is £200, although again a FPN can be paid instead – the amount is £50 (reduced to £30 if paid within 15 days).

In the period 16th October 2017 to date of writing the team has issued

- 7226 FPN's for littering
- 40 FPN's for dog fouling
- 583 FPN's for smoke-free offences.

Of the littering offences

- 6904 related to cigarette litter

- 322 related to other types of litter

To date, payment has been made in 65% of cases. 1400 cases have been sent through to Legal Services for prosecution using a new Court system known as the Single Justice Procedure. Of the cases sent through for prosecution, 75% have resulted in convictions, 15% are still pending, 10% have been withdrawn for public interest reasons, and no cases have been lost. In general the Court awards a fine of around £220 and costs of £85 when it finds a defendant guilty. The Council does not receive any of the fine, but will receive costs if they are paid.

598 FPN's have been cancelled for various reasons.

During the period of Team's operation, the team has performed satisfactorily in terms of conduct and diligence. Initial impact on litter levels in Blackburn Town centre were noticeable, particularly around the bus station, although this improvement has slackened off in recent weeks, resulting in increased tasking of the team in the Town Centre. Issues around littering by under 18's have been identified, and this will be dealt with by the development of a policy for tackling littering by persons under the age of 18.

The result of the Team's work is that Blackburn with Darwen now has a viable litter enforcement regime now, where there was none previously. In addition, the issue of dog fouling FPN's has increased significantly, currently at 40 compared with previous years' figures of around 5 per year.

During the period of the Team's operation, there has inevitably been some media interest, but while there has been criticism from some aggrieved parties as might be expected, public opinion appears to have been generally favourable. The Council is aware of a high profile Facebook campaign against Kingdom Environmental Services Group Ltd based in north Wales, but allegations made by this group have not been substantiated. Conversely, the Team is receiving intelligence from the community to target its activity.

There is no doubt that public awareness about personal responsibility in relation to littering and dog fouling has been raised, and that dog fouling and litter enforcement is having a positive impact on the Borough. Therefore it is recommended that enhanced enforcement activity continues.

Consideration has been given to the possibility of bringing this area of enforcement in-house, but investments in software and staff to cope with the back office requirements would result in a net cost to the Council.

Other suppliers have been considered, but at present there is no apparent benefit to the Council's changing suppliers.

Consequently, as Kingdom Environmental services Group Ltd.'s performance has been satisfactory in delivering the contract, and a seamless transition in service delivery is desirable, it is recommended that the contract be extended until the end of October 2019, with a view to retendering for then. It is recommended that in the meantime detailed information is collated in relation to enforcement models adopted by other Councils, and a detailed review of the viability of bringing the service in-house in a different format than the current stand-alone team is undertaken.

5. POLICY IMPLICATIONS

Work of the Dog Fouling and Litter Enforcement team supports the Council's corporate objectives

1. Creating more jobs and supporting business
2. Improving Health and Wellbeing
3. Making your money go further

6. FINANCIAL IMPLICATIONS

The Dog Fouling and Litter Enforcement team currently operates at zero cost to the Council, including management and accommodation costs.

7. LEGAL IMPLICATIONS

The enforcement project is compatible with the current Prosecution Policy.

Enforcement staff appointed to deliver the service have appropriate authorisations to enforce the relevant legislation.

8. RESOURCE IMPLICATIONS

The SJP format of the prosecution reports has lessened the burden of such a large number of prosecutions on Legal Services, but the demand has still been significant. The Environment & Leisure Department is negotiating the funding of appropriate levels of support for dog fouling and litter prosecution work from within Legal Services going forward.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 ☒ Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 ☐ In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 ☐ In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

No consultations have been undertaken in relation to this report.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1.2
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CONTACT OFFICER:	Gary Johnston
DATE:	10/1/19
BACKGROUND PAPER:	None