

---

**PRIVATE SECTOR ENVIRONMENTAL CRIME ENFORCEMENT**

---

**Responsible Cabinet Member -**  
**Councillor Nick Wallis, Leisure and Local Environment Portfolio**

**Responsible Director -**  
**Paul Wildsmith, Director of Neighbourhood Services and Resources**

---

**SUMMARY REPORT**

**Purpose of the Report**

1. To seek approval from Members to enter into a contract with a private sector company to provide enforcement services for litter and dog fouling offences.

**Summary**

2. In 2016, the Council agreed as part of the Medium Term Financial Plan to review the use of private sector environmental crime enforcement for tackling litter.
3. Work to review options has taken place since then with officers and Members visiting two other local authorities and discussions have taken place with two private sector companies who provide this service.
4. Following this work it is proposed to carry out a tender exercise with a view to entering into a contract for a six-month pilot and the provision of an ongoing service by a suitably qualified company to provide enforcement services for litter and dog fouling.
5. The contract would provide additional resources above those provided by the Council and would be at no cost to the Council with the cost of the additional service covered by fine income.
6. The introduction of the additional service will lead to a significant increase in the number of fines issued.

**Recommendation**

7. It is recommended that :-
  - (a) Members agree to enter into a contract with a private sector organisation to deliver enforcement services for environmental crime.
  - (b) The procurement process be deemed to be strategic.

- (c) Members remove the existing early payment arrangement and set the fine for litter and dog fouling at £75.
- (d) Members confirm the policy detailed in this report at paragraph 24 with regard to Under 18s.

## **Reasons**

8. The recommendations are supported by the following reasons :-

- (a) To assist the Council in dealing with litter and dog fouling throughout the Borough.
- (b) To enable the appropriate arrangements to be put in place with regard to level of fine and action for Under 18s.

**Paul Wildsmith**  
**Director of Neighbourhood Services and Resources**

## **Background Papers**

No background papers were used in the preparation of this report.

Ian Thompson : Extension 6612  
IT/CD

S17 Crime and Disorder	Litter and dog fouling is a problem within the Borough and the Council does have powers to issue Fixed Penalty Notices (FPNs), to prosecute and take to court.
Health and Well Being	In some cases, litter and dog fouling does impact on the overall appearance of an area and can impact on individuals' health and well being.
Carbon Impact	This report does not impact on carbon emissions.
Diversity	All individuals will be treated in the same way with regard to the issue of FPNs other than those under the age of 18 as detailed in the report.
Wards Affected	All Wards are affected.
Groups Affected	All Groups are affected.
Budget and Policy Framework	There is no impact on the Council's Budget and Policy Framework
Key Decision	This is a key decision as it impacts on all Wards.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	Littering and dog fouling across the Borough has an impact on Darlington as a place.
Efficiency	There is no impact on the Council's Efficiency agenda as part of this report.
Impact on Looked After Children and Care Leavers	This report has no additional impact on Looked After Children or Care Leavers and the policy for issuing a FPN to under 18s is detailed in the report.

## MAIN REPORT

### Background

9. In 2016, the Council agreed as part of the MTFP to review the use of private sector environmental crime enforcement, tackling in particular litter.
10. Officers have visited two other local authorities who use private sector enforcement companies; Doncaster with Councillor Wallis and Barnsley with Councillor Carson. Generally the feedback from these two authorities was positive. It is fair to say that this approach does divide public opinion but on balance was favourable.

### Proposal

11. It is proposed to tender and enter into a contract with a private sector company, initially to provide a six months' trial for litter and dog fouling offences. If successful, and Members wish to continue then the contract would be for 5 years

with the option for a 5-year extension with a three-month break clause in the Council's favour only. In addition to litter and dog fouling enforcement, the option will be built into the contract to use the successful company to enforce other environmental crime on an ad-hoc basis from time to time if required.

12. Subject to Members approval, the intention is to carry out a tender exercise during March and April, awarding the contract in May/June. It is then likely there will be a three-month mobilisation period for the successful company with an anticipated start date of September 2018.
13. The contract would likely include:
  - (a) That it is self-financing by the income from fines being issued. The company will carry the full financial risk. This will mean a significant increase in the number of fines issued in the Borough and evidence from other Councils suggest a significant number of the fines relate to cigarette littering. .
  - (b) The main focus of any service would be within densely populated areas such as the town centre.
  - (c) The contract will cover the whole geographical boundary of the Borough, however work beyond densely populated areas, will be infrequent as the ability to raise fines is less, however the contract would be intelligence-led working closely with the Council and other partners.
  - (d) The contract will cover a full end to end service from issuing the FPN to providing the prosecution case file for our Legal team to take to court.
  - (e) The contract would focus on litter and dog fouling and would not deliver some of the main challenges we have with regard to back lanes and fly tipping. This area will be discussed later in this report.
  - (f) It is anticipated that the company would provide admin support, a Team Leader and a number of Enforcement Officers on the ground.
  - (g) The service will be provided six days, Monday to Saturday, between the hours of 6am and 11pm depending on the requirements of the service.
  - (h) The contract will include the provision of an appeals process to be administered by the successful company.
  - (i) In the lead up to the introduction of the contract a campaign will be undertaken highlighting the zero tolerance approach to littering.

## **Back Lanes, Fly Tipping and Other Environmental Crime**

14. As part of this year's Medium Term Financial Plan, money has been allocated to Community Safety with the intention of setting up a new team covering a range of services. As part of this team, an on-street enforcement service will be set up. This team will cover nuisance parking, civil parking enforcement, environmental crime including fly tipping, waste out in back lanes, abandoned vehicle, graffiti, litter, dog fouling and anti-social behaviour. Therefore this resource will address the challenges faced regarding fly tipping and back lanes together with the additional cleaning teams added to the service as part of the MTFP.
15. The contract monitoring for private sector enforcement will be the responsibility of the Head of Community Safety who will be working closely with any successful company.

### **HR Implications**

16. There are currently 1.5FTE staff involved in the Environmental Crime service, however the vast majority of their time is focused on back lanes, fly tipping and abandoned vehicles. This work will continue as part of the new Community Safety team and will not transfer to the company as part of the contract. Whilst there will be the ability in the contract to use the successful company for other environmental crime, this will be on an ad hoc basis for short periods of time or to cover any shortfall in capacity from the substantive workforce, as and when required, and therefore TUPE will not apply.

### **Procurement Advice**

17. The contract falls within the Public Contracts Regulations 2015 and will need to be advertised in the Official Journal of the European Union. This will be done via the NEPO portal using the open procedure and will be awarded based on 60% quality 40% price. There will be an initial six-month pilot period where the success or otherwise of the service can be assessed, thereafter a 5-year contract, which includes the 6 month trial period, with an option to extend for a further 5 years with a three-month break clause exercisable by the Council. Therefore in future years if the service was no longer suitable for the Council, the contract could be terminated with three months' notice.
18. Attached as **Appendix 1** is the procurement matrix and this procurement will be strategic.

### **Financial Implications**

19. The basis of the contract is income generation through the issue of FPNs, which will cover the operating costs of the private sector company. The model adopted by DBC will be one where the Council does not carry any financial risk and depending upon the number of tickets issued, will receive a percentage payment of each ticket, which will be used to cover the additional legal costs required to take court against non payers

20. The fine for a FPN for littering and dog fouling is £75. The Council currently have an arrangement for a reduced charge if paid within 14 days of £50. The model adopted with the private sector company will not include the early payment arrangement and all fines have to be paid at £75.

### **Fixed Penalty Notices for Under 18s**

21. Different arrangements will apply to those under 18 years of age who commit these offences. Those arrangements will be:-

**(a) 10-13 year olds**

FPNs will not be issued to persons under the age of 14 where a littering or dog fouling offence is witnessed but they should still be requested to pick up the litter or dog foul and both the juvenile and their parent/guardian will be sent a formal warning so that the parent/guardian is aware of the situation.

**(b) 14 and 15 year olds**

If a littering or dog fouling offence is committed by a person who is 14 or 15, in the first instance they would be requested to pick up the litter or dog foul and dispose of it in the correct manner. If the request is complied with, a formal warning would be given, verbally at the time, and followed up in writing to both the juvenile and their parent/guardian explaining the correct procedure.

If the litter or dog foul is not picked up then a FPN would be issued to the individual and the parent/guardian informed.

Note: Prior to the FPN being issued, consultation will take place with the Youth Offending Service as to whether this is an appropriate course of action.

**(c) 16 and 17 year olds**

If an individual who is 16 or 17 commits a littering or dog fouling offence then the individual will be issued with a FPN and the parent/guardian informed. Consultation again will take place with the Youth Offending Service as to whether this is an appropriate course of action, before the FPN is issued.

In every instance where a fixed penalty notice is issued to an under 18, consideration can be given to a supervised litter pick as an alternative to payment of the fixed penalty notice. This option will be communicated to under 18s and their parent/guardian at the time of the fixed penalty notice being sent out to them.

### **Legal Implications**

22. There will be significantly more FPNs issued through this contract and it is anticipated that approximately 75% of the FPNs will be paid without having to progress to court. This means that 25% would need to go to court, which is a significant increase in the number that currently proceed to court by virtue of the increase in the number of the FPNs that will be issued. However, a requirement of the contract is that any successful company prepares the prosecution case files and works closely with the Council's Legal team and Magistrates to minimise the

impact on the Council, although the income the Council receives from the contract will be used to increase the resource in Legal Services required to prosecute these offences.

23. The powers to issue fixed penalty notices, to administer an appeals process and to initiate Magistrates' Court proceedings for unpaid fixed penalty notices will be undertaken by the successful company acting as the agents of the Council in the carrying out of this contract. The legal powers to do this rests with the Council and appropriate oversight and monitoring will be required to ensure that the work undertaken by the successful company is in line with our criteria for issuing PFN's and meets prosecution standards.

## **Consultation**

24. No consultation has taken place in the production of this report.