

PRIVATE SECTOR ENVIRONMENTAL CRIME ENFORCEMENT - UPDATE

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

**Responsible Director -
Ian Williams, Director of Economic Growth and Neighbourhood Services**

SUMMARY REPORT

Purpose of the Report

1. To provide Members with an update on the pilot entered into with Kingdom Services Group with regard to enforcement services for litter and dog fouling offences.

Summary

2. The Council have been running a pilot with Kingdom Service Group following a successful tendering exercise for the enforcement of litter and dog fouling offences. This report provides information on the number of Fixed Penalty Notices (FPNs) issued to date, feedback from residents and town centre traders. Also discussed in the report are the options available to Members following the conclusion of the pilot.
3. Officers' experience of working with Kingdom Service Group to date has not been positive. There have been four changes in senior management with limited contact and support for Kingdom staff on site from the central offices. This has resulted in Council staff having to support Kingdom staff on a daily basis as appropriate.
4. The Council's own Civic Enforcement team is now established, who have responsibility for nuisance and civil parking enforcement, anti-social behaviour, and environmental crime including litter and dog fouling. Whilst issuing FPNs for litter and dog fouling, for Civil Enforcement staff it is only an ancillary part of their role and is carried out in a more proportionate manner. The Council can still clearly demonstrate that it does not tolerate deliberate littering and dog fouling, and will take action when required.
5. Due to the poor service and experience of Kingdom Service Group to date, feedback received from residents and traders, for these reasons it has been recommended not to continue with the contract following the pilot.

Recommendation

6. It is recommended that the Council issue notice to Kingdom Service Group to terminate the contract for litter and dog fouling enforcement at the end of the pilot period, 31 March 2019.

Reasons

7. The recommendation is supported by the following reasons :-
- (a) The poor experience and service provided by Kingdom Service Group to date, as well as the feedback from residents and traders.
 - (b) To end private sector enforcement for litter and dog fouling across the Borough, allowing time for Kingdom Service Group to wind down the contract.

Ian Williams
Director of Economic Growth and Neighbourhood Services

Background Papers

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

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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 wellbeing.
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 dated 6 March 2018.
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 dated 6 March 2018.

MAIN REPORT

Information and Analysis

Background

8. Members received a Cabinet report on 6 March 2018 with regard to Private Sector Environmental Crime Enforcement where Members approved going to tender for the provision of such a service. Following approval by Members, a tendering exercise was conducted, which was advertised through the Official Journal of the European Union via the NEPO portal using the open procedure, and was offered on a 60% quality and 40% price basis.
9. The outcome of the tendering exercise was the submission from one supplier, Kingdom Services Group, who, following evaluation, were successful and therefore appointed.
10. The contract was based on a Team Leader and four Officers based in Darlington, working Monday to Saturday, 9am to 6pm. The service commenced on 17 September 2018 and for the first two weeks, warning letters were issued only. Thereafter from 1 October 2018, Fixed Penalty Notices (FPNs) were then issued to anyone caught littering or allowing their dog to foul without cleaning up after it.
11. The contract is initially for a six-month period pilot period from 1 September 2018 to 31 March 2019. Thereafter, subject to Members wishing to continue, the Council would enter into a five-year contract, expiring on 31 August 2023, with the option for a further five-year extension, with a three-month break clause built into the contract in the Council's favour only.

Update

12. Since the 1 October 2018, Kingdom officers have been operating on the streets in Darlington, mainly in the town centre, issuing FPNs for litter and dog fouling. As mentioned above, the contract is based on a Team Leader and four Officers, however to date the number of staff has varied as staff have been employed and subsequently left. Currently, early December 2018, there is one Team Leader and three Officers.
13. Unfortunately from the experience of Officers, support from Kingdom's central office has been poor and DBC staff have had to help and support Kingdom staff who are based in Central House with the Council's Civic Enforcement Team.
14. Since the start of the contract in September 2018 there have been four changes in senior management and minimal engagement with officers of the Council. However there is now a new management structure in place at Kingdom and Council officers are trying to engage and work with them closely.

Fixed Penalty Notices Issued

15. From 1 October 2018 until 31 December 2018, 574 Fixed Penalty Notices have been issued. Of these:
 - (a) 531 (92%) were issued within the Town Centre

- (b) 43 (8%) were issued in other areas of the Borough
- (c) 559 (97.4%) were issued for discarding cigarette ends
- (d) 14 (2.4%) were issued for other littering offences
- (e) 1 (0.2%) were issued for dog fouling

Complaints/Appeals

16. As part of the contract, Kingdom are required to deal with appeals against FPNs. Until 31 December 2018, Kingdom have received 66 appeals, of which 19 have been upheld (accepted) and 47 have not been upheld (rejected).

Resident Feedback

17. The Council has been collecting comments from residents on the website throughout the pilot period and whilst certainly not representative of the Borough's population, when asked 'should the Council continue with the service after the pilot' the following responses have been received:

- (a) No: 89 (62%)
- (b) Yes, but with conditions: 27 (19%)
- (c) Yes: 26 (18%)

18. Where residents have answered 'Yes, but with conditions' this was either for the Council to take over the service or a more proportionate approach to issuing of Fixed Penalty Notices.

Feedback from Town Centre Traders

19. A variety of town centre traders, small, medium and large, as well as varied types of business were asked 'should the Council continue with private sector enforcement in the town centre after the pilot ends in 2019'. In total 24 businesses were asked and there was an even split of 8 saying Yes, 8 saying No, and 8 Don't Know. Two of the major retailers in the town centre were strongly opposed to continuing this service at the end of the pilot.

The Council's Civic Enforcement Service

20. As part of the MTFP in 2017, Members allocated funding to Community Safety with the intention of setting up a new team covering a range of services. As part of that service, a Civic Enforcement Team was set up, which covers nuisance parking, civil parking enforcement, environmental crime including fly tipping, waste out in back lanes, abandoned vehicles, graffiti, litter, dog fouling and anti-social behaviour. The team consists of Anti-Social Behaviour & Civic Enforcement Operational Team Leader, three Senior Civic Enforcement Officers and 10 Civic Enforcement Officers, working on a shift rota covering Monday to Sunday, 8am to 10pm. The main focus being on parking enforcement, anti-social behaviour and higher level environmental crime. The Council staff are trained and authorised to issue FPNs for litter and dog fouling should they evidence it when on patrol.

Options Following the Pilot

21. Once the pilot is complete at the end of March 2019, Members have two options; to continue with the service entering into a five-year contract or to cease the service.
22. If Members choose to continue the contract, there is however a three-month break clause built in to the contract in the Council's favour only, which should at any point during that five years Members choose to end the contract, they can do so with three months' notice.
23. Should Members choose to cease the contract with Kingdom at the end of March 2019 following the pilot, officers would issue the appropriate notification to Kingdom to terminate the contract on 31 March 2019. If Members chose this course of action then the Council's Civic Enforcement Service who are already authorised to issue Fixed Penalty Notices for litter and dog fouling could continue to do so as an ancillary part of their generic role. This would ensure that the Council continues to take action against those individuals who deliberately litter and allow their dogs to foul without picking up after them. The Council's approach is more proportionate than the business model of Kingdom and therefore whilst still issuing FPNs for deliberate littering and dog fouling, there would be a significant reduction in the number of FPNs issued. The Civic Enforcement Service would not be dedicated to this area of work, as Kingdom is, with the issuing of FPNs only consisting of a minimal proportion of the officers' role.

HR Implications

24. There are no known HR implications. TUPE has been considered, however as there is no service provision change, this would not apply. There is already an internal team who have a varied job description that includes town centre enforcement and this will not change.

Legal Advice

25. The contract was entered into for an initial six-month trial period and therefore the Council has the ability, should it choose to, to end the contract at 31 March 2019. If Members wish to continue then the Council would enter into a further five-year contract which includes a three-month break clause, which can be served at any time without reason or compensation, in favour of the Council only.

Financial Implications

26. The basis of the contract with Kingdom is income generation through the issue of FPNs, which cover their operating costs and therefore there is no financial impact on the Council.

Conclusion

27. Up to the end of December 2018, the Council's experience with Kingdom Service Group has not been a positive one. There have been four changes in senior officers dealing with the Council with very limited contact and requests for information being slow to be received. In addition, for the Kingdom staff on site, there has been very little central support with Council staff having to support Kingdom staff on a day to day basis where appropriate. Generally, while not representative, the public's view is that they don't wish the contract to continue after the pilot and the view of town centre traders is mixed, however two of the major retailers have expressed strong opposition to continuing with the service.
28. It is for these reasons that officers recommend to Members not to continue with the pilot after 31 March 2019.
29. This does not mean that the Council will relax its approach to litter and dog fouling. It will continue to issue FPNs through the Civic Enforcement service as officers are already authorised to do so. However, this is only an ancillary part of their role as they also enforce nuisance and civil parking, anti-social behaviour and other environmental crime. The Council's approach will be more proportionate than the business model of Kingdom and therefore there would be a significant reduction in the number of FPNs issued for the offences of litter and dog fouling.