

BARNSELY METROPOLITAN BOROUGH COUNCIL

**South Area Council Meeting:
7th April 2014**

Agenda Item: 3ai

**Report of South Area Council
Manager**

**Environmental Priority - Enforcement Project
To agree an amended tender specification**

1. Purpose of Report

- 1.1 To explain why a revised Environmental Enforcement tender specification has been produced, to replace the Service Level Agreement agreed at the South Area Council meeting on 28th February 2014
- 1.2 To seek agreement for the revised Environmental Enforcement tender specification.

2. Recommendation

- 2.1 That the South Area Council approves the Environmental Enforcement tender specification attached at Appendix A to provide 4 Environmental Enforcement Officers at a cost of £100,000 per year
- 2.2 Due to timescales, that the final approval of the Procurement Strategy with an agreed Price/Quality split is delegated to the Assistant Director Neighbourhoods, Access and Support, following consultation with members, including the Area Chair.

3. Environmental Enforcement Project – progress to date

- 3.1 During February 2014, the BMBC Community Safety and Enforcement Service (CSES) approached Area Councils across the borough to offer a package of additional environmental enforcement, which could be procured using Area Council budgets from 2014 onwards. This package focused around the employment of additional Enforcement Officers who would focus on the issuing of Fixed Penalty Notices (FPNs) for dog fouling, littering and parking. This would require a Service Level Agreement between the CSES and each Area Council, which would enable the Service to tender on the Area Council's behalf and to bring in a sub-contractor who would employ the staff.
- 3.2 This approach was highly favoured by South Area Council members, who approved a Service Level Agreement with the CSES for 4 additional full time equivalent Environmental Enforcement Officers at their meeting on February 28th 2014.
- 3.3 However, during further discussions with NPS around procurement and tendering procedures, it emerged that there were a number of issues which would prevent the CSES from tendering for extra Enforcement staff on Area Councils' behalf, and that Area Councils would need to tender for these contracts themselves.
- 3.4 As a result, a new draft tender specification (attached at Appendix A) has been developed and now requires Area Council approval to enable us to start the tendering process.

4. Relationship between Environmental Enforcement Officers & BMBC Community Safety and Enforcement Service

- 4.1 In the light of the new tendering arrangements outlined in the draft tender specification, it remains vital that relationships between the Area Council, the CSES and the additional staff are clear. This was written into the original Service Level Agreement with the CSES and is now incorporated into the new tender specification. Appendices B,C and D explain the policy context in which this will need to operate to meet legal standards, and also how the core enforcement and additional enforcement services will need to work together at a local level to ensure maximum effectiveness of the extra resource.
- 4.2 It is also clear that in order for an external organisation to operate within the Council's legal framework, some of the equipment, training and support costs will need to be provided by the CSES. Because of this, there will be a cost to Area Councils payable to CSES to provide these services. These are outlined for approval in Paper 3a ii
It should be noted that these are NOT additional costs. The original price of the service as agreed on February 28th 2014 was £130,000 per year. This has now split into a tender price of £100,000 per year for the 4 Enforcement Officers and £28,000 for the costs payable to CSES, bringing the total cost to £128,000 per year.

Appendices

Appendix A - Environment Enforcement Project Specification

Appendix B - Calls Processing Flow Chart Environmental Enforcement

Appendix C - Community Safety and Enforcement Service - Enforcement Policy

Appendix D - Community Safety and Enforcement Services - Draft Environmental Crime Policy Statement

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Date:

31st March 2014.

Appendix A

**SOUTH AREA COUNCIL COMMISSIONING
PRIORITY ENVIRONMENT – PROJECT SPECIFICATION**

South Area Council Environmental Enforcement

PROJECT OVERVIEW AND SCOPE OF SERVICE

1. INTRODUCTION

A key purpose of the Area Councils is to grow community capacity by commissioning local services and encouraging volunteering.

The aims of Area Governance are to:

- Ensure people of all ages have a much greater involvement in designing services and actively participating in improving their lives.
- Support the many benefits of volunteering and foster the many and diverse opportunities for residents to gain new skills and experiences through volunteering.
- Ensure customer services and the citizen experience of access is improved.
- Engage local communities in helping to shape the decisions and services in their neighbourhood.
- Ensure the Council operates fairly and demonstrates total commitment to equalities in policy and practice.
- Establish new models of delivering services guided by local choice and need.

The South Area Council has identified 'the environment' as one of the key issues that they wish to prioritise during 2014/15. Within the context of this priority, an enhanced enforcement capacity is seen as vital to prevent problems escalating and so that the

positive work undertaken to maintain the environment is not undone by an anti-social minority.

Public feedback consistently identifies environmental blight through littering, dog fouling and illegal parking as the causes for local concern, and highlights where the people who live and work in the area want to see action being taken.

This proposed intervention will strengthen the ability to demonstrate a strong stance on enforcement issues through this extra provision and will be marketed through a Zero Tolerance approach in the four Wards that make up the South Area Council (Darfield, Hoyland Milton, Rockingham and Wombwell).

2. BACKGROUND AND CONTEXT

- 2.1 The South Area Council will purchase bespoke services to tackle the areas of concern most affecting our communities. The aims of procuring bespoke environmental enforcement services are to respond to locally identified priorities, encourage the public to take pride in their local environment and facilitate a change in behaviours and attitudes towards looking after the environment. The majority of residents take pride in where they live and treat their local environment and fellow residents with respect. More robust enforcement will help the South Area Council to isolate the small minority that disrespect their environment and fellow residents and take robust action against them to change the way they behave and make them contribute towards the costs of improving the environment in which we live.

The South Area Council will seek to maximise the impact of resources being earmarked to address environmental crime by procuring high quality proven services, and to operationally align those services to the Council's Community Safety and Enforcement Service. This arrangement is designed to achieve the best possible value for residents by purchasing the necessary skills and expertise at an affordable price. By subsequently aligning these bespoke additional services to the existing core services provided by the Council the South Area Council will ensure that any service is delivered within the parameters of the Council's policies, with the integrity and authority it requires and within the existing operational infrastructure of the Council.

As a number of Area Councils are considering also procuring bespoke environmental enforcement services, and where similarities apply in those requirements, these may be procured collectively across Area Council boundaries to maximise the potential for achieving best value for money. However all services will be delivered bespoke to the value of the local commission and according to the needs of the individual Area Council.

3. STRATEGIC VISION AND VALUES

3.1 Barnsley Council's Vision is to '***Work together for a brighter future, a better Barnsley***'.

Our Values include:

Working Together:

- We work as "One Council" to do the best that we can for our customers.
- We build partnerships and work with others to achieve the best for Barnsley.
- We are understanding and supportive of others, respecting and valuing differences.
- We are open and honest about what we are able to achieve, the decisions we make and how well we are doing.
- We are true to our word, reliable and fair.
- We are responsible and accountable for our actions.

Excellence:

- We are committed to quality and value for money.
- We learn from our successes and mistakes.
- We are flexible, adaptable and respond positively to change.

Pride:

- We are proud of the work we do and services we deliver.
- We are proud to support our communities to make Barnsley a better place.
- We are proud of our achievements.

4. COUNCIL PRIORITIES AND OUTCOME STATEMENTS

4.1 In developing and delivering this bespoke environmental enforcement service, the Service Provider should ensure that it is contributing to the Council's corporate priorities and outcome statements as outlined below:

<p>Growing the Economy</p>	<ul style="list-style-type: none"> • Create the conditions for economic growth and greater prosperity <p><i>Making the Wards of Darfield, Hoyland Milton, Rockingham and Wombwell a more inviting place to live and work. This in turn will make the area more attractive as a place to shop locally, and may attract new businesses to the area.</i></p>
<p>Improving People's potential and achievement</p>	<ul style="list-style-type: none"> • Make the improvement of people's health and wellbeing everybody's business, with an emphasis on prevention and the contribution that all services can make • Ensure that the Council plays a strong part in keeping the Borough safe and work with others to improve community safety <p><i>Encouraging people who live and work in the four Wards of the South Area Council to `Love Where You Live` and take a pride in their local community.</i></p>
<p>Changing the relationship</p>	<ul style="list-style-type: none"> • Engage local communities in helping them shape the decisions and services in their

between the Council and the Community	neighbourhood <i>Number of Community representatives involved in making financial decisions which contribute to local Ward priorities.</i>
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5. SPECIFIC AIMS AND OBJECTIVES OF THE SERVICE, INCLUDING SOCIAL VALUE OBJECTIVES

5.1

- Commissioned enforcement services will be designed to operate locally and according to the priorities of the Area Council.
- Close working relationship with the Council's Community Safety and Enforcement Service to fully complement the existing 'core' environmental enforcement service provision provided by the Council's Community Safety and Enforcement Service
- Link with other South Area Council procured services, to support the overarching aims of area governance shown above.
- Be based locally in suitable, easily accessible facilities.
- Neighbourhoods are engaged and encouraged to identify disrespect for their local environment.
- Increase the opportunities for volunteers and volunteering.
- Improve physical health and emotional well-being in the Area.

Under this contract, the successful service provider will also be required to actively contribute to the achievement of specific social value objectives. These include:

- The provision of local skills development, work experience placements and apprentice opportunities.
- Employment and training opportunities within the locality.
- Development of strong community networks, community self-help and resilience.
- Use local labour/ supply chain.

The Service and Activities to be Delivered:

- To provide the South Area Council with 4 Environmental Enforcement Officers working 37 hours per week dedicated to environmental enforcement activity over an initial 12 month period (not withstanding annual leave).
- The Service will cover the four Wards of the South Area Council of Darfield, Hoyland Milton, Rockingham & Wombwell.
- The Service to be provided flexibly according to need and to include evenings and weekends with a minimum of 10 hours per week per officer spent working either weekends, before 8am or after 5pm.
- There will be no abstractions of the dedicated South Environmental Enforcement Officers from the South area.
- 100% coverage of any sickness or non leave related absence will be provided by the Service Provider to maintain service delivery.
- It is expected that each Environmental Enforcement Officer provided by the Service Provider will proactively issues tickets for littering, parking and dog fouling offences.
- Appropriate mobile devices for employees.

Duties of The Service Provider's Environmental Enforcement Officers:

- To target problems of littering, dog fouling and parking enforcement within the South Area. This will include proactive patrolling based on intelligence profiles provided by the members of the Area Council, the Area Matrix Management Team, which is chaired by the South Area Council Manager and the Council's Community Safety Enforcement Service. The Tasking Officer will deploy, and review the work of, the Enforcement Officers based on this intelligence.

- Officers will patrol priority areas and robustly enforce against any offences witnessed by issuing a fixed penalty notice.
- Fixed Penalty Notices or Penalty Charge Notice will be issued in all circumstances where an offence has been witnessed or established.
- Where littering is observed from vehicles, registration numbers will be taken and passed to the Council's Community Safety and Enforcement Service along with a witness statement to allow for the serving of a Fixed Penalty Notice.
- The Tasking Officer on behalf of the Service Provider will provide verbal updates to the Area Matrix Team regarding emerging problem areas or trends.
- At least 85% of contracted time to be spent out of the office either patrolling or on targeted operations linked to litter, dog fouling and parking enforcement.
- BMBC enforcement uniforms with relevant authorities and insignias to be worn, unless plain clothes operations are being undertaken.
- Officers will maintain a pocket notebook which will be kept up to date and will be the subject of periodic checking by the Tasking Officer.
- For 1 hour at the end of each working week officers will be required to complete a weekly report sheet detailing activity and outputs for the week this will include reference to
 - Overall patrolling hours by Ward.
 - Number and Locations of Litter Specific Operation.
 - Number and Locations of Dog Fouling Operations.
 - Number and Locations of Parking Operations.
 - Number locations and type of other activity.

- Number of Littering FPNs.
- Number of Dog Fouling FPNs.
- Number of Parking PCNs.
- Other activity.

Other Contract Details

Partnership Working:

- The provider should establish and maintain close working relationships with active local resident groups to build intelligence networks and to improve personal levels of responsibility.
- The provider will ensure good liaison with other services operating in the South Area. This will be coordinated via the Area Matrix Management Meetings and the Council's Community Safety and Enforcement Service. The Environmental Enforcement Officers will work alongside other partners and commissioned services on joint operations.
- The Service Provider and the Council's Community Safety and Enforcement Service will work with the Area Team to identify opportunities for reparation work to be undertaken in the South Area so that justice can be seen to be done locally.

BMBC roles and responsibilities:

The Council's Community Safety and Enforcement Service will provide the following equipment and services. This is to ensure that:

- the Service Provider's enforcement services operate as part of the broader approach to community safety and enforcement,
- operate with the same degree of integrity,
- benefit from existing local infrastructure,
- do not duplicate core Council enforcement activity

- can legitimately act on behalf of the Council as the primary enforcement agent in the South Area

The detail below describes the arrangements which will enable the Environmental Enforcement Service to be bespoke and matched to the needs of the South Area Council whilst enabling operational effectiveness and legitimacy within the corporate requirements of BMBC. Accordingly, and for the avoidance of doubt, tenderers **will not** be required to include for costs associated with the Equipment and Support listed within their tender bids because these items will be provided by the Council:

Equipment:

- Body Cameras (1 per officer).
- Appropriately branded vehicles at a ratio of 1 per 2 officers to provide transport for the Service Provider's enforcement officers across the South Area Council/Ward area. Vehicles will carry the insignia of the Area Council and BMBC Community Safety and Enforcement Services.
- Community Safety and Enforcement uniforms with clear designation of authorities carried and the Area Council from which the officers are functioning.
- Pocket Books.
- Office accommodation within the local area.

Support :

- Processing and Monitoring Officer support to process fines and PCNs issued and ensure income is recycled to the South Area Council.
- Support providers to promote the initiative to local residents and the wider community.

Operational activities to be undertaken by BMBC Community Safety and Enforcement Service:

- Authorisation of the provider to act on behalf of the Council including endorsement of individual competencies to discharge certain powers.
- Provision of weekly tasking requirements according to local hot spot areas and areas identified for priority intervention.
- Direct telephone and e-mail access for Elected Members and other co-opted Area Council Members will be enabled through Tasking Officers to contribute to local intelligence and inform service priorities.
- Provision of quarterly reports from the Tasking Officer to be submitted to the Area Council by the Area Manager to inform the development of tactical enforcement priorities.
- Process all fines for payment.
- All prosecutions or court warrants for non payment will be secured by the Community Safety and Enforcement Service (Service Solicitor and Head of Service).
- All fine payments will be recycled by the Community Safety and Enforcement Service to the South Area Council where issued by the Service Provider.

Operational activities to be undertaken by Service Provider

- Provide enforcement officers as outlined within this document.
- Issue fines (FPNs and PCNs) correctly upon witnessing an offences occurring.
- Routinely share intelligence gleaned by the Service provider with the Local Safer Neighbourhood Team.

The above describes arrangements which will enable environmental enforcement services to be bespoke and matched to the needs of the South Area Council whilst enabling operational effectiveness and legitimacy within the corporate requirements of BMBC.

6. TARGET GROUPS AND/OR AREAS

- 6.1 The service will target people who live or work in the Wards of Darfield, Hoyland Milton, Rockingham and Wombwell.

7. EQUALITY IMPACTS

- 7.1 The successful service provider will be required to ensure that the service is free from bias and acknowledges and respects gender, sexual orientation, age, race, religion, culture, lifestyle and values. If any needs are required as per the Equalities Act, such as language or disability, these needs will be provided for during the term of the contract.

Please also refer to Section X - Form of Contract.

8. PERFORMANCE MEASURES AND OUTPUTS

8.1 Service Outcomes and Measures: Table 1 below details the outcomes or results that the service provider is required to achieve as a consequence of the service being delivered. A list of possible outcome measures is also provided. This is indicative only and tenderers are required, as part of their tender return, to propose their own list of outcome measures, along with realistic targets, baselines and methodology for gathering the data/measuring. Final measures and targets will be agreed prior to contract commencement. **Please refer to Section X – Tender Quality Questionnaire.**

8.2 Table 1:

Performance Measures:	
Outcome	Indicative Outcome Measures
Making the Wards of Darfield, Hoyland Milton, Rockingham & Wombwell a more inviting place to live and work. This in turn will make the area more attractive as a place to shop locally, and may attract new businesses to the area	<p>A Zero Tolerance enforcement approach to environmental crime locally</p> <p>Reduction in the perception and volume of anti-social behaviour at local level</p> <p>Improvements to the local environment</p>
Encouraging people who live and work in the four Wards of the South Area Council to 'Love Where You Live' and take a pride in their local community	<p>A Zero Tolerance enforcement approach to environmental crime locally</p> <p>Keeping the Wards clean and litter free</p>

Facilitating opportunities for reparation activities for young people.	Increase in young people involved in local reparation activities
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9. PERFORMANCE MEASURES AND OUTPUTS (Cont'd)

9.1 Service Interventions/Activities: Table 2 below details examples of possible interventions/activities that the service provider may propose to achieve the outcomes/required results. This list is indicative only and tenderers are required, as part of their tender return, to describe their proposed method of delivery and proposed interventions, along with the rationale supporting these. **Please refer to Section X – Tender Quality Questionnaire.**

9.2 Table 2:

Performance Measures			
Outputs (collectables)			
<i>Output</i>	<i>Target Number</i>	<i>Supporting Evidence</i>	
Number of valid/enforceable Fixed Penalty Notices for Littering	It is not legal, or morally, appropriate to set targets associated with the issuing of Fixed Penalty Notices, nor should it be seen as an opportunity to generate income. However, it is anticipated that there will be a substantial increase in Fixed Penalty Notices issued relevant to the enhanced service being procured.	Community Safety and Enforcement management records	
Number of valid/enforceable Fixed Penalty Notices for Dog Fouling		Community Safety and Enforcement management records	
Number of valid/enforceable Fixed Penalty Notices for Parking Offences		Community Safety and Enforcement management records	
Value of Fixed Penalty Notices paid and returned to the South Area Council		Difficult to determine - dependent upon type of offence, age of offender and payment being made	Community Safety and Enforcement Financial Information
Number of positive		12 (one per month) per	Press articles, news

news stories generated	Area Council	stories, radio etc.
Time spent out on active patrol or targeted operations	85% of individual officer time	Community Safety and Enforcement Management records
Number of young people opting to take part in local reparation activities	Cannot set target – dependent upon personal choice of offenders	Community Safety and Enforcement Management records

10. PROCUREMENT PROGRAMME

Indicative Programme:	
Tender Return	Mid May 2014
Tender Evaluation	End May 2014
Tender Report and Approval to Award	End May 2014
Standstill Period and Feedback	Early June 2014
Agreement of Outcome Measures and Activities/Interventions	Early June 2014
Award Contract	Late June 2014
Contract Commencement	July / August 2014

11. CONTRACT VALUE AND CONTRACT DURATION

- 11.1 The contract duration is 1 year, with a break option after 6 months (please refer to Clause XX of the Contract, contained in Section 4). The estimated total value of this procurement is £100,000 over that 1 year period, subject to funding and the Service Provider's achievement/delivery of outcomes, outcome measures and interventions and outputs.

12. CONTRACT TERMS AND CONDITIONS

- 12.1 See Section 4 – Form of Contract.

Contract Management:

The South Area Council has developed a detailed specification outlining specific requirements of an environmental enforcement service for the area. The South Area Council will be responsible for commissioning these services from the most appropriate provider following a transparent and robust tendering exercise. Once a provider is commissioned the South Area Council will oversee the delivery of the contract in line with the agreed specification and receive regular progress reports from the South Area Council Team. Within the specification the relationship between the successful service provider and Barnsley Council's Community Safety and Enforcement Service is clear and this should be unequivocally demonstrated and only providers recognising this relationship will be considered for award of this contract.

The successful service provider post contract award will be required to continually demonstrate and evidence the effectiveness of the service in terms of delivering the required outcomes, outcome measures and interventions. There is a key requirement of the service provider to:

- Collect, collate and report on a range of agreed measures on a quarterly basis as part of a quarterly reporting regime.
- Establish compatible systems to ensure effective management and performance management of the service. Information systems must comply with the requirement of the Data Protection Act.
- Attend monthly meetings with the South Area Council Manager, in their capacity as Contract Manager, to discuss contract performance and management issues and any Ward or Area Council report requirements, and request any additional information and provide clarification, if required.
- Submit an end of year performance report.

- A 'lessons learned' meeting will be convened 3 months before the contract end date and an end of project report submitted before the contract end date.
- The Area Council Manager will review performance and may reasonably ask for additional information at any time.

Monthly Reporting Requirements

The Tasking Officer will collate reports based upon information gathered and provided by the Service Provider will provide monthly written reports to the Contract Management meetings detailing the following:

- Overall patrolling hours by ward.
- Number and Locations of Litter Specific Operation.
- Number and Locations of Dog Fouling Operations.
- Number and Locations of Parking Operations.
- Number locations and type of other activity.
- Number of Littering FPNs.
- Number of Dog Fouling FPNs.
- Number of Parking PCNs.
- Other activity.

Quarterly Reporting Requirements

The Area Managers will ensure (in partnership with BMBC Tasking Officer) that the South Area Council receive a full quarterly report which provides a holistic local area based picture of the full breadth of the bespoke environmental enforcement activity. This report will outline overall performance and activity for the previous quarter and establish tactical and strategic priorities for the coming quarter, as agreed with the Council's Community Safety and Enforcement Service. Elected Members, and other members of the Area Council, will be able to inform the Tasking Officer of specific issues of concern.

The general public can raise issues of concern through existing Council channels as outlined in Appendix B. Other issues of concern may also be picked up through Police channels, and both types of intelligence will be incorporated into the Enforcement Officers workload through the Tasking Officer.

13. QUALITY STANDARDS

- 13.1 The provider of this service has a legal obligation to adhere to all equality legislation. The service provider must produce their policy relating to race, gender, disability, religion or belief, sexual orientation and age. This policy should include the reporting mechanism for any adverse events which would constitute a deviation. Any and all adverse events should be reported to the Area Manager.

Robust policies and procedures are to be put in place to ensure safeguarding of all children and adults and, in particular, adequate measures/ systems to ensure robust data protection and information governance.

In order for the Service Provider's service to align to the Community Safety and Enforcement Service the following requirements must be met:

- a) The Service provider will operate completely within the Policies of BMBC (see Appendix C) with regards to enforcing against littering, dog fouling, parking and any other specified enforcement activity.
- b) The Service provider will be tasked according to the local intelligence provided by the members of the Area Council, the Area Matrix Teams and the Council's Community Safety and Enforcement Service, and must incorporate these tasks into their day-to-day workload.
- c) That staff employed by the service provider meet the required competency levels of the Council to act as an enforcing agent on their behalf. This will include
 - To understand how to correctly interview a suspect and record the interview
 - To understand what constitutes a littering & a dog fouling offence.

- To be able to illicit the necessary information required to pursue such an offence.
 - To be able to process the information to issue a fixed penalty notice
 - To be able to offer an alternative to fixed penalty notice payment for juveniles.
 - To understand what happens if a fixed penalty notice is not paid.
- d) The Service provider enforcement staff wear the enforcement uniform of the Council.
- e) That provider enforcement staff must seek to meet the required integrity thresholds of South Yorkshire Police and BMBC. (see Appendix D)
- f) That provider enforcement staff will operate from the same working bases as the local Safer Neighbourhood Teams aligned to Area Council boundaries.
- g) That the provider will share all local information intelligence and data established during the course of their activity and that this is shared with the Council's Community Safety and Enforcement Service.

Additionally:

- The Service Provider will have a robust system for monitoring complaints and suggestions; feedback from service users will inform service delivery.
- The Service Provider will submit reports summarising any complaints, investigations and remedial actions.

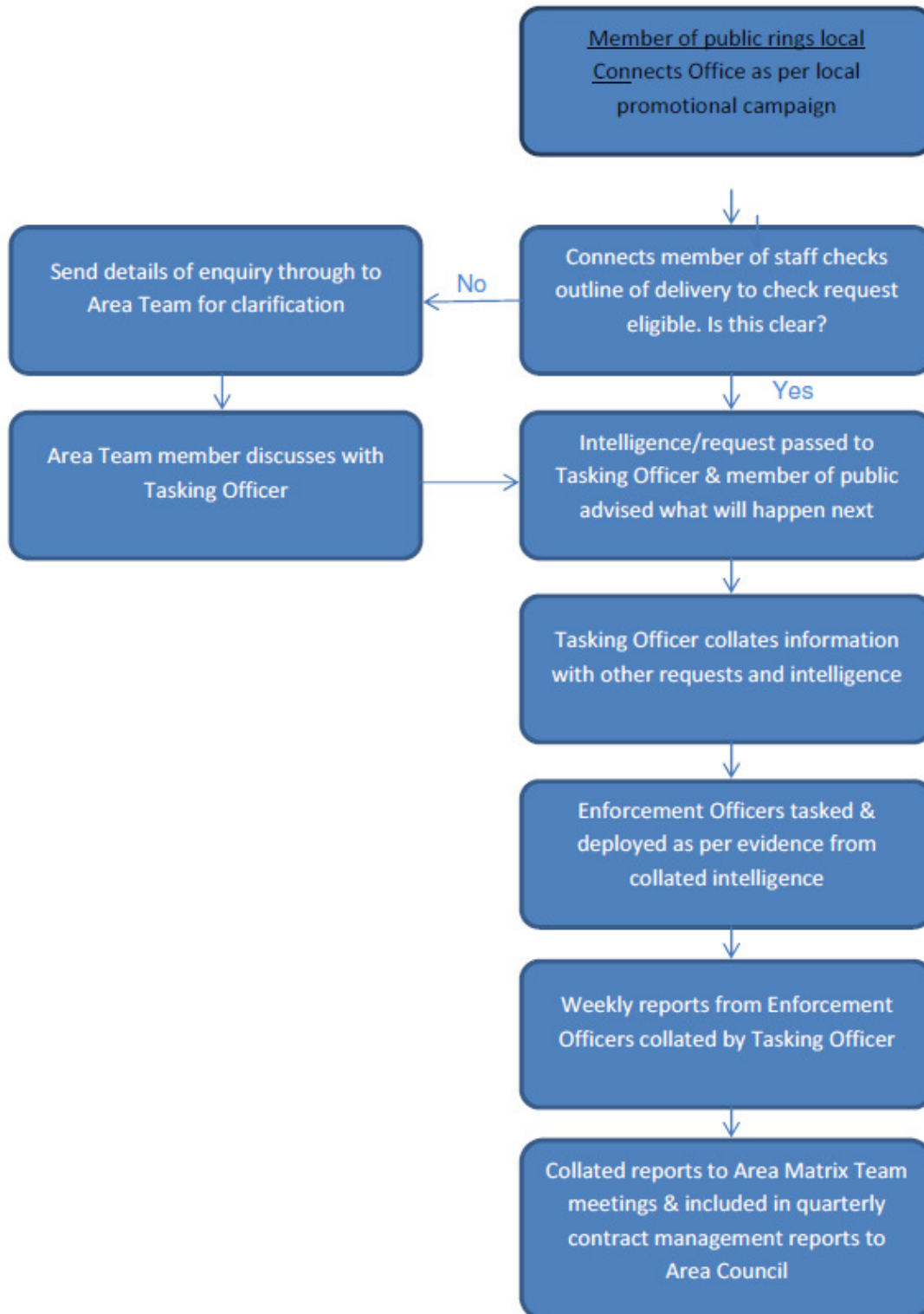
Please also refer to Section 4 – Form of Contract.

14. HEALTH AND SAFETY

- 14.1 The Community Safety and Enforcement Service will, at all times, adhere to the requirements of the Health and Safety at Work Act 1974 and any other relevant guidance and directives in force or subsequently issued.

Appendix B

Calls Processing Flow Chart Environmental Enforcement



Appendix C



BARNSLEY
Metropolitan Borough Council

COMMUNITY SAFETY AND ENFORCEMENT SERVICE

ENFORCEMENT POLICY

Signed:

Date:

Phillip Spurr
Assistant Director, Development, Environment and Culture

Status: Draft
Version Number: 1.0

1. **Enforcement Policy Statement**

This policy sets out the general principles which inform the enforcement function within the Community Safety and Enforcement Service. Each team within the Service may also have more specific guidance to aid them in applying these principles to a particular function.

2. **Introduction**

Officers in the Community Safety and Enforcement Service will seek to secure compliance with legislation whilst conforming to the spirit of the European Convention on Human Rights (as implemented by the Human Rights Act, 1998) and the Central/Local Government Enforcement Concordat which this Authority has adopted. The Community Safety and Enforcement Service enforce a wide variety of legislation and had tools and powers that enable officers, amongst other things, to issue verbal advice, send letters, serve formal notices, obtain injunctions and orders, issue simple cautions and pursue prosecutions in the courts.

Officers frequently encounter contraventions of the law and have to choose the most appropriate method of achieving compliance with the law from the range of possible actions available.

The Service will seek to carry out its enforcement functions efficiently and effectively and in a way which is open, clear and helpful to all stakeholders.

The enforcement action chosen by the officer must be informed by this policy, which promotes consistency, proportionality, transparency, fairness and accountability.

This policy will be available to any party affected by enforcement decisions made by the Service.

Where the Service becomes aware of a situation for which it is not the enforcing agency, it will contact the relevant enforcement body to inform them of the situation. Similarly where there is a shared role with other enforcement bodies, officers shall liaise accordingly.

3. **General Principles**

The Community Safety and Enforcement Service will seek to secure compliance with the relevant legislation.

When officers find a contravention of the law they will warn or advise those involved (orally or in writing) of the steps needed to rectify the breach, unless more formal enforcement action is the most appropriate way of dealing with the matter (e.g. absolute offences, fixed penalty notices).

All communications will be clear and in plain English, translated where appropriate, and will clearly distinguish between advice and legal requirements. Officers will endeavour to discuss fully with a responsible person any compliance failures or difficulties and will give full consideration to their views before making an informed decision on the most appropriate course of action.

The Service will follow the principles of better regulation. It will have regard to the Regulator's Compliance Code (The Regulators Code, from April 2014) and the Regulators Enforcement and Sanctions Act 2008.

The Service will at all times comply with the spirit of the European Convention on Human Rights as implemented by the Human Rights Act, 1998. It will also have due regard to all necessary procedural requirements contained in legislation such as the Criminal Procedure and Investigations Act 1996, the Regulation of Investigatory Powers Act 2000, the Police and Criminal Evidence Act 1984 and the Data Protection Act 1998.

The policy will be operated in a non-discriminatory way and for example, gender, ethnic origin or sexual orientation of the offender will not influence the choice of enforcement action.

The Service will, so far as is possible, endeavour to foster a good working relationship with all stakeholders.

4. Enforcement Options

There are a number of options available when infringements are detected:-

a) Prosecution

The decision to institute formal prosecution proceedings will only be taken if one or more of the following criteria apply:-

- The infringement involved fraud.
- The infringement involved deliberate or persistent breach of legal responsibility, e.g. choosing to disregard written warnings or advice, or where history indicates previous criminal activity was caused, or was likely to cause, significant loss or prejudice to another individual.
- The infringement was through gross negligence or carelessness and caused, or was likely to cause, significant loss or prejudice to another individual.
- The infringement led to the health, safety or well-being of people, animals or the environment being seriously compromised, or contributed to damage of the reputation or economic well-being of the borough.
- The infringement involved the obstruction of an authorised officer in carrying out his or her duties.
- The infringement has been subject to the offer of a fixed penalty notice, which has not been accepted.
- The infringement was an absolute offence.
- The offence is widespread throughout the borough.

Furthermore, a prosecution will only be considered if the sufficiency of evidence and the public interest requirement fall within the guidelines as laid down by the Attorney General and Crown Prosecution Service Code for Crown Prosecutors.

Before making a decision whether or not to prosecute, consideration should also be given to the following:-

- The seriousness of the offence and whether it was likely to cause substantial loss or prejudice to others.
- The history of the alleged offender (e.g. number of complaints and convictions, or extent of previous advice given).
- The willingness of the alleged offender to prevent a recurrence of the infringement.
- The alleged offender has offered a remedy - e.g. redress, compensation.
- The likelihood of the alleged defendant being able to establish a statutory defence.
- The calibre and reliability of witnesses.
- The probable public benefit of a prosecution and the importance of the case e.g. the possibility of establishing legal precedent.
- If there is a trivial contravention of the law, or where infringements are isolated technical breaches of law, and it is therefore not in the public interest to prosecute.
- If a simple caution may be more appropriate or effective.
- The cost, consideration will need to be give to the balance of likely overall cost against the value of the likely outcome.
- If the infringement indicates evidence of unfair competition with others.

b) Fixed Penalty Notice

A number of offences can be dealt with by a fixed penalty notice.

These notices allow an offender to accept the offence, and by payment of the appropriate amount within the stipulated timescale, discharge their liability for prosecution, i.e. full and timely payment will result in no prosecution for the offence.

Persons issued with a notice are not obliged to pay the fixed penalty, in such cases the matter will be referred to the magistrate's court for the purpose of prosecution. This will give the defendant the opportunity to offer a defence and mitigation.

In the spirit of proportionality and consistency fixed penalty notice will be issued for a first offence. Repeat offenders and those who are obstructive, violent or aggressive to the authorised officer, will not be offered the option of a fixed penalty (see section 4 of this policy).

b) Simple Caution

A simple caution can only be considered when all the appropriate prosecution criteria are met, and the circumstances surrounding the infringement are such that a more lenient approach to prosecuting is appropriate. Any simple caution must follow the criteria as laid

down in the Home Office Guidelines. If a decision to offer a simple caution is rejected by the alleged offender, then the file shall be forwarded to the Council's legal unit, with a recommendation to prosecute.

c) **Statutory Notice**

Notices can be served to require offenders to cease contravening activities, or to give them reasonable time to rectify a contravention. Notices may require immediate cessation of infringing activities where health, safety, environmental damage or nuisance demands it. In other circumstances, time allowed to put things right may be reasonable, but must take into account the health, safety, environmental and nuisance implications of the contravention.

d) **Written Warnings and Advice**

The offender will be sent a polite and firm letter clearly identifying the infringement, they will be given advice on how it can be rectified and a timescale for doing so. Failure to comply with a written warning or advice can result in more formal enforcement action. The time given for the infringement to be rectified will be reasonable, but must take account of the health, safety, environmental and nuisance implications of the infringement.

f) **Referral to Another Agency**

Sometimes the matter may be more appropriately dealt with by means of referral to another agency that has the power and authorisation to address the matter.

g) **No Action**

In some circumstances, contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade, or the offender is elderly and frail and formal action would seriously damage their well-being. A decision to take no action must be recorded in writing and must take into account the health, safety, environmental and nuisance implications of the contravention.

6. **References**

The Code for Crown Prosecutors. Crown Prosecution Service, November 2004

The Enforcement Concordat. Better Regulation Unit, March 1998

The Regulator's Compliance Code. Department for Business, Enterprise and Regulatory Reform

Appendix D



COMMUNITY SAFETY AND ENFORCEMENT SERVICE

DRAFT ENVIRONMENTAL CRIME POLICY STATEMENT

**Status: Draft
Version Number: 1.0
Date: February 2014**

1) **Definition**

Environmental Crime can loosely be defined as any illegal act which harms the environment. Such acts can be committed by the general public and by businesses/companies.

Areas covered under the remit of this policy include the offences of:

- Littering (including littering from vehicles)
- Dog fouling
- Fly tipping
- Fly posting
- Graffiti
- Abandoned and nuisance vehicles
- Duty of care offences
- Litter and refuse control offences

2) **Legislative Framework**

This policy statement takes into account the following relevant legislation:

- The (Dogs) Fouling of Land Act 1996
- Anti- social Behaviour Act 2003
- Environmental Protection Act 1990
- Clean Neighbourhoods and Environment Act (CNEA) 2005
- Refuse Disposal (Amenity) Act 1978
- The ASB Crime and Policing Bill 2013-14

3) **Statutory Duties**

In relation to the above legislation, Barnsley Council has a statutory duty to address the following:

- Abandoned Vehicles – to remove abandoned vehicles (Refuse Disposal (Amenity) Act 1978)
- To keep land and highways free of litter (Environmental Protection Act 1990)
- To remove offensive graffiti as soon as practicable (Crime and Disorder Act 1998)
- Anti-social behaviour – to investigate complaints and to take appropriate action (Anti-Social Behaviour Act 2003)
- Nuisances – to investigate complaints and take appropriate action (Environmental Protection Act 1990)

4) **Local Strategic Priorities**

It is essential that the following functions are maintained as they make an important positive contribution to the Council's three corporate priorities and the economic strategy. By promoting a healthy, safe, clean environment and improving the quality and visual amenity of the borough, businesses will be encouraged to locate in the borough which will stimulate and create the conditions for investment, growth and prosperity.

The following core functions significantly contribute to improving the quality of life for customers and the wider community, giving people the opportunity to improve their potential and achievement and develop strong resilient communities.

- Dog fouling – to enforce the legislation that requires dog fouling to be removed from designated land

- Littering – to enforce the littering legislation
- Flytipping – to take preventative and enforcement action
- Nuisance vehicles – to enforce the legislation relating to vehicles that constitute a nuisance
- Flyposting – to enforce the legislation relating to illegal flyposting
- Duty of care – to enforce the legislation relating to the requirements for the safe removal, transfer and disposal of waste
- Conditions adversely affecting the amenity of areas – to enforce planning legislation

5) **Our Approach**

We are committed to dealing with environmental crime in our neighbourhoods, considering existing and new methods of deterrence, detection, investigation, and enforcement, alongside partnership working with internal and external agencies. We recognise different types of environmental crime will require the use of different interventions and legislation to try to achieve a resolution. The decisions relating to how environmental crime is dealt with will be consistent, proportionate, transparent, and accountable and fair, to ensure people, businesses, places and/or the environment are/is adequately protected.

In making decisions on what methods of intervention to use we will consider several criteria. The criteria we will consider include:

- The seriousness of the offence
- The impact on individuals and the community
- The history of the activity
- Confidence in achieving compliance
- Consequences of non-compliance
- Likely effectiveness of the various types of intervention

We will generally take a staged approach to addressing incidents of environmental crime. We will consider what prevention and enforcement measures are available to us and use our policy framework and expertise to choose the most appropriate intervention. Having considered the criteria we have the following options:

- To take no action
- To take informal action
- To issue formal/informal warning letters
- To serve statutory notices
- To issue simple cautions
- To prosecute

Further details regarding types of intervention can be found in our detailed functional policy statements and operational procedures.

6) **Policy**

The Community Safety and Enforcement Service will:

- Proactively enforce within the legislative framework and prioritise complaints on the basis of presented risk and harm, in accordance with the Services Enforcement Policy
- Carry out a program of reactive and proactive activity in response to environmental crime issues
- Seek to prevent the escalation of incidents of environmental crime

7) **Access to service**

To report an incident of environmental crime contact 772468 or e-mail safer@barnsley.gov.uk

8) Consultation and Policy Review

This policy will be reviewed every three years, or earlier, in line with Government guidance, best practice and legislative changes. As part of the review, we will consult with residents and other stakeholders on the contents and effectiveness of the policy.

9) Procedures

Detailed direction and guidance for these function areas are contained in the Community safety and Enforcement Service's, Environmental Enforcement Procedures document.