

Cabinet

16 DECEMBER 2015

Subject Heading:

Attestation of Parks Protection Officers

Cabinet Member:

Councillor Melvin Wallace

CMT Lead:

Andrew Blake Herbert

Report Author and contact details:

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Policy context:

Parks and Open Spaces Strategy 2013-15

Financial summary:

There are no significant, immediate additional costs arising from this report.

Is this a Key Decision?

Yes

Significant effect on two or more Wards

When should this matter be reviewed?

December 2016

Reviewing OSC:

Towns and Communities

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	[X]
People will be safe, in their homes and in the community	[X]
Residents will be proud to live in Havering	[X]

SUMMARY

The report seeks a member decision on the attestation of the permanent Parks Protection Officers. Attestation will provide the Officers with the same powers as Police officers and allow them to better deal with the more serious incidents that can arise in parks and open spaces.

RECOMMENDATIONS

That Cabinet:

1. **Authorise** the permanent members of the Parks Protection Team being attested and securing the same powers as police officers, but only to be exercised within the boundaries of Havering's parks and open spaces.
2. **Authorise** the permanent members of the Parks Protection Team to use batons and other protective equipment but only in self-defence and in relation to dealing with dangerous animals.
3. **Authorise** the Parks Protection team to develop new partnership arrangements with the police service so that the more serious incidents which might occur in parks and open spaces are more effectively dealt with.
4. **Agree** to receiving a progress report once the attestation powers have been in place for a 12 month period.

REPORT DETAIL

1. The Parks Protection Team is part of the Council's Parks and Open Spaces Service and these Council officers work specifically in Havering parks and open spaces. The team operates seven days a week, covering key times throughout the day and evening. They are based in Raphael Park and patrol the borough's open spaces using motorbikes and an off-road vehicle, so that they can quickly and effectively respond to parks related demands. The main purpose of the Parks Protection Service is to help maintain safety in the borough's parks and open spaces ensuring they remain pleasant for everyone to visit, throughout the year, by targeting anti-social behaviour and criminal activity.
2. The Parks Protection Team works closely with the community and have informally recruited many members of the public as 'parks watchers', who assist with monitoring of green spaces, by alerting the team to any emerging issues which may need to be addressed. The Team also work alongside the Metropolitan Police when there is a joint need to do so, including dealing with matters of serious crime, when specialist teams are needed, or when a greater response is required such as when there is a larger site vulnerable person search.

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3. The Parks Protection Team is currently deployed all year round in Havering Parks to enforce Pleasure-Ground Byelaws under the Public Health Act 1875. They educate, warn or prosecute offenders according to the nature or persistence of the offence. The team members are employed to ensure that the infrastructure of parks is protected and to maintain safety for all park users. Their role additionally encompasses the protection of wildlife and the encouragement of responsible dog ownership. They carry basic water safety equipment for use should an emergency occur during their patrols. They oversee a small parks' gate operative locking team to ensure the physical security of locked parks. A defibrillator is also carried for 'ambulance purposes' in order to ensure that such equipment is readily available, including on sites located some distance from a highway. All officers are First Aid trained.
4. The Parks Protection Team has previously been able to deal effectively with all those otherwise law-abiding offenders, willing and able to supply their correct name and address. They are not, however, currently authorised to detain the 'criminal minority' who refuse to provide their true identity which can be used for prosecution purposes. This effectively means that a small percentage of law breaking may go unaddressed and if allowed to continue, could lead to a gradual break-down in confidence in the Team; as the general public become aware that some offenders cannot be dealt with fairly and effectively.
5. To remedy this situation it is proposed that the permanent members of the Parks Protection Team are formally attested as Constables, to act as a Parks Police Service in Havering parks (albeit they will still be known as the Parks Protection Team). This will allow for the detention of any problem individuals, helping to ensure that certain matters can be brought before the court via the issue of a summons. The arrest of an offender may sometimes only involve a short detention after the offence whereby the verifiable name and address is furnished for an effective prosecution to then take place. In certain circumstances however, it may lead to the detention of an offender who will need conveying to the nearest police station that has a custody suite, until police bail can be arranged. Prosecution will then continue using the Council's Legal Services team, unless more serious criminal matters warrant handover to the Metropolitan Police. This will be necessary for further investigation to take place and potential prosecution by the Crown Prosecution Service.
6. All current Parks Protection Team officers have previous experience in policing and are either formerly trained by the Metropolitan Police or as parks police constables. Further supplementary training - as changes of legislation arise - will be arranged with West London Parks Police, a much larger parks police service. The Parks Protection Team is, in addition, currently trained annually in conflict management skills including the safe and effective use of reasonable force. Any new employees will need the same level of training. Existing risk assessments covering the same issues will be further updated to ensure that all new powers of a constable are included, including detention and arrest. Protocols with the police will be developed and put in place to ensure a seamless partnership working where detention is required at a police station.

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7. One of the main risks to the Local Authority is the submission of a complaint about being restrained/detained, and/or use of excessive force by an officer and/or injuries resulting from an arrest. This risk can be mitigated by using trained, experienced officers as constables who are already well versed in conflict resolution skills and working in line with dynamic risk assessments. This, added to clear management instructions and guidance about the use of restraint and officer discretion will mean that any powers gained will not be used without good cause and only in the public interest as a last resort. Written risk assessments will be in place to ensure that the risks are mitigated as far as possible.
8. The second risk is possible injury to a constable on the Parks Protection Team should an offender try to resist being restrained/detained. This risk can be mitigated in the same way as the above through the use of trained, experienced officers and by ensuring that clear management instructions, guidance and risk assessments are in place. The Parks Protection Team will also carry out a dog control support role. The officers will be entitled to use reasonable force and carry an extendable baton which may be used according to standard operating procedures and updated risk assessments. The protocols and procedures will also make it clear that batons and other protective equipment can only be used in self-defence and in relation to dealing with dangerous animals.
9. Notwithstanding the above risk, it may be considered that attestation powers will reduce the current risks associated with staff managing very difficult conflict situations. This is due to the fact that the assault of a constable in the 'execution of their duty' is still regarded by the courts as a very serious matter and likely to carry the risk of a custodial sentence. Hence the minority of parks users causing problems are likely to be more hesitant to use force against a constable as compared to a 'Council officer' carrying out a similar role.
10. The above risks are linked to a wider risk associated with possible reputational damage to the Council if the new powers are not used or perceived to be not used in a reasonable and appropriate way. Linked to this it is recommended that Parks Protection Officers can only exercise their powers as constables within the boundaries of parks and open spaces. Chases in vehicles or on foot outside parks and open spaces will not be allowed under the new protocols that will be drawn up. .
11. Should Members agree with the recommendations in this report, it is anticipated that attestation will go ahead by January 2016. Monitoring and reporting procedures will be put in place so that further reports can be written on the impact of the attestation powers being introduced.

REASONS AND OPTIONS

Reasons for the decision:

To more effectively deal with the more serious incidents that can arise in the borough's parks and open spaces.

Other options considered:

The option of not proceeding with attesting the Parks Protection Officers was considered but rejected on the grounds that a number of different types of serious incidents in parks and open spaces could not be addressed unless the officers had attestation powers.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no significant, immediate additional costs arising from this report.

There will be risks associated with the proposal, which will need to be carefully managed, with any uninsured losses falling on the service. The proposal to attest Parks Protection Officers is covered by existing insurance arrangements so there are no immediate cost implications in respect of the Council's insurance premium. If there was a significant deterioration in claims experience however, then the Council's insurers may well revisit this position. It is not envisaged that there would be any greater potential for uninsured losses than the Council already bears the risk for in other areas, though this will need to be monitored.

As a general comment, this is not a statutory service. Should the Council's financial situation worsen, clearly there will be a need to protect services for which there is a statutory requirement.

Legal implications and risks:

Local Authorities have the powers to facilitate the 'swearing in' of nominated individuals as Constables under Article 18 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967. The Constables are then able to enforce byelaws and other regulations within the Council's parks and open spaces only. Constables must be in uniform when acting as such.

Article 19 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 gives the power to constables in parks and open spaces to seize and detain persons committing

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offences for the purposes of conveying them directly to a police station to be questioned and or charged, where that person's name or address cannot be ascertained by the Constable.

The general power of arrest without warrant, by constables or other persons is contained in sections 24 and 24A of Police and Criminal Evidence Act 1984 as amended. The arrest conditions in sections 24 or 24A must be satisfied otherwise the arrest will be unlawful and may result in civil actions including for false arrest and detention. Where the arrest criteria under section 24 or 24A is not met then lawful arrest may only be carried out under Warrant or pursuant to a court order..

To secure Attestation the Parks Protection Team officers would be sworn in at the local Magistrates Court under Article 18 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967. This will mean that they only become attested Constables for the London Borough of Havering for its parks and open spaces. They do not, however, become 'Home Office police staff' and will not have any direct connection with the Metropolitan Police, although partnership working with Territorial Police could be expected to increase substantially once the new Parks Constabulary has formed. Their powers in green spaces will encompass only Council owned parks and open space areas, under the control of the Parks and Open Spaces Manager.

Human Resources implications and risks:

Existing officers in the Parks Protection Team have some experience of exercising the powers associated with attestation, as they are either former police officers or have operated as parks constables with previous employers. Nevertheless they will be required to review their training and undertake new training as required; plus there would be a need to fully review all risk assessments and protocols and put in place new arrangements as required, to reduce the risk of them suffering avoidable personal injury or inflicting injury on others i.e. members of the public. There will be a need to consult with the Health and Safety Team in order to undertake the relevant reviews and ensure that all relevant systems, procedures, protocols and training is advised and put in to place.

The attestation of constables will only involve permanently employed staff. Each officer will be required to declare any unspent convictions and agree to a DBS / Basic Disclosure check being undertaken. .

The proposed new roles would require amendments to the Parks Protection Team Manager and the Parks Protection Team Officer job profiles. Revised job profiles have been evaluated and the relevant grades / salaries will remain the same should the affected staff be attested.

Equalities implications and risks:

The initiative outlined in the report provides for a proportional means of ensuring that communities in Havering are able to use the parks and open spaces within the Borough. The remit of using the powers are clearly defined and articulated in policies and work instructions to the personnel concerned. The parks staffs have been trained to ensure that they are able to engage with communities and those persons with specific protected characteristics e.g. learning disabilities, mental health issues.

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This training will be reviewed should specific training requirements in relation to diversity be identified this will be provided. There will be the opportunity to record diversity information in relation to the number of 'stop and account' made by staff and these will be shared with agencies to ensure that there is no disproportionality in terms of the people being 'stopped' by staff. This will ensure that there is transparency in the process.

BACKGROUND PAPERS

None