

## Notice of KEY Executive Decision

<b>Subject Heading:</b>	Parks Locking and Litter Enforcement Pilot : Award Acceptance
<b>Decision Maker:</b>	Sandy Hamberger – Director of Policy, Strategy and Transformation
<b>Cabinet Member:</b>	Cllr Barry Mugglestone, Cabinet Member for Environment Cllr Paul Middleton, Cabinet Member for Corporate, Culture and Leisure Services
<b>SLT Lead:</b>	Sandy Hamberger
<b>Report Author and contact details:</b>	Chris McAvoy – Head of Environmental Enforcement and Community Safety T: 01708 433588 E: <a href="mailto:chris.mcavoy@havering.gov.uk">chris.mcavoy@havering.gov.uk</a>
<b>Policy context:</b>	<b>This service will contribute to the Cleaner and Prouder corporate themes.</b>
<b>Financial summary:</b>	Provides an additional enforcement service which is likely to generate approximately £0.075m - £0.10M per annum through the issuing of Fixed Penalty Notices (FPNs)  As part of the 18 month pilot, the successful company will provide a parks locking service free of charge to the Council (this previously cost the Council £0.10M per annum to deliver and would

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	<p>cost that to re-instate if the pilot is unsuccessful).</p> <p>If successful, the pilot can be extended for one additional year before being renewed via the procurement process.</p> <p>Therefore the total maximum anticipated value over the 30 month contract is circa £0.5M</p>
<b>Reason decision is Key</b>	<p>Indicate grounds for decision being Key:</p> <p>(a) Expenditure or saving (including anticipated income) of £500,000 or more</p> <p>(c) Significant effect on two or more Wards</p>
<b>Date notice given of intended decision:</b>	13 <sup>th</sup> March 2023
<b>Relevant OSC:</b>	Place OSSC
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

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

People - Things that matter for residents

Place - A great place to live, work and enjoy      **X**

Resources - A well run Council that delivers for People and Place.

***Place an X as appropriate***

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### Part A – Report seeking decision

#### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

With regards to this project, a competitive procurement exercise has been completed and a successful bidder has been identified.

A decision now needs to be made to formally accept the bid and award the contract to allow the service to implement the roll out of the pilot.

The successful bid has been made by NES (National Enforcement Solutions)

#### **AUTHORITY UNDER WHICH DECISION IS MADE**

Havering Council's Constitution, Part 3.3 Powers of Members of the Senior Leadership Team;

##### **Contract powers**

- (b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract procedure Rule 16.3.

#### **STATEMENT OF THE REASONS FOR THE DECISION**

The Council currently exercises powers to take formal enforcement action including the issue of Fixed Penalty Notices (FPNs) and prosecution of those who commit environmental crime in accordance with the Environmental Protection Act 1990, the Clean Neighbourhoods and Environment Act 2006 and other related legislation.

The cleanliness of the local environment is a top priority for the quality of life of local communities. Reducing litter, and other anti-social criminal behaviours will also influence the feeling of pride in local areas and develop stronger relationships between service providers and local communities, enhancing the reputation of the council.

Success in achieving cleaner local neighbourhoods over the long term will depend on changing people's attitudes and behaviour towards the environment and this in turn depends on visible, effective deterrents.

The Pilot will aim to change behaviours by sending the message that disregard for the environment is not acceptable and will result in action being taken.

As part of the pilot, the outsourced company will also reinstate the ability to lock and unlock Havering's park gates, which was suspended in mid-2022 in order to mitigate pressures in the enforcement team budget.

#### **OTHER OPTIONS CONSIDERED AND REJECTED**

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**1. Externalise the whole existing enforcement provision:** This option was considered and rejected because an externally employed enforcement team is a very different team to an internal one, and both can – and usually do – produce different work streams. It is felt that a 'blended' service would work best, hence the need for a trial, to see how that works in Havering.

**2. Do nothing:** This option was considered and rejected because there is a need to ensure that Havering is a safe and clean place to live. Residents have made it clear that they want the parks locking service continued, so this pilot will provide that service as well as an increased enforcement capability at no cost to the council.

By engaging a provider, in a cost neutral contract, this will also increase the amount of income generated for Fixed Penalty Notices (FPNs) whilst ensuring that all parks and open spaces are regularly patrolled.

### **PRE-DECISION CONSULTATION**

The pre-decision consultation has involved engaging with a number of stakeholders for the tender. In summary, the table below presents the type, methods and stakeholders engaged in the pre-decision consultation;

<b>Type</b>	<b>Methods</b>	<b>Consultees</b>
Project Board	Formal regular meetings phone, email	a) Environment and Community Safety b) Public Protection c) Procurement d) Finance
Review of Tender Documents	Desktop Research, Phone, Email, Meetings	a) Potential providers b) Neighbouring boroughs c) Project Board members
Prior Information Notice	Notice published via the Council's procurement system	a) Interested Providers in the market
Market Engagement Event	Meeting with potential bidders	a) Environment and Community Safety b) Procurement
Cllr enqs/complaints	Review of emails / complaints process	a) Residents b) Councillors

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Chris McAvoy

Designation: Head of Environmental Enforcement and Community Safety

Signature: *Chris McAvoy*

Date: 9<sup>th</sup> February 2023

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### **Part B - Assessment of implications and risks**

#### **LEGAL IMPLICATIONS AND RISKS**

The Council has power to procure the contracts under the general power of competence contained in section 1 of the Localism Act 2011 which allows the Council to do anything that an individual may do subject to any statutory constraints on the Council's powers. None of the constraints on the Council's s.1 power are engaged by this decision.

The Council also has power to procure the contracts under s111 Local Government Act 1972 which allows the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

The contract contains both concession and services elements which are objectively separable. Regulation 20 of the Concession Contracts Regulations 2016 and Regulation 4(2) of the Public Contracts Regulations 2015 (PCR 2015) deal with such contracts and require that they are procured via the PCR 2015 regime regardless of the respective value of each part. The proposed method of procurement complies with this requirement.

For the reasons set out above, the Council may commence the tender process for the parks and littering enforcement pilot.

#### **FINANCIAL IMPLICATIONS AND RISKS**

The Pilot is based on a 'no cost - no risk' financial model. This means that the cost of providing the Service to the Council will be funded from the Fixed Penalty Notice ("FPN") payments and any shortfall shall be a risk for the Provider. In Addition, the Provider will provide the Council with an agreed share of the income from paid FPN's. The agreed share will be as per the percentage submission detailed in the Provider's tender response and the schedule of rates.

Based on indicative FPN forecasting, the Council is expected to receive circa £0.075m-£0.100m in income generated from the FPNs per annum, during the 18 month contract. In addition to this, by including the internal parks locking service within the Pilot, the Council will restart the parks locking service at no extra cost to the Council, having made previous savings from stopping the service in 2022.

#### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no implications or risks anticipated to council staff as the employees involved in the delivery of the pilot will be employed directly by the successful Provider

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### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

The action undertaken in respect of this pilot will include monitoring how the service meets the needs of the council and residents, including those from ethnic minority communities and the disabled. The Council will also ensure that any prospective providers have undertaken equality training and adhere to the Council's Fair to All Policy or their own equivalent.

The Council will be able to carry out a dip sample of data during the pilot to ensure that marginalised or vulnerable groups are not being disproportionately being targeted or affected prior to any extension or re-procurement.

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### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

Smokers who litter their cigarette butts are likely to feature in the demographic of people affected by the increased enforcement activity. It could be argued that this could further encourage them to consider quitting cigarettes.

It is envisioned that littering in parks and in public spaces will reduce significantly after a period of intense enforcement, and this will lead to a better street scene and could improve the mental health of those who live and work in the borough.

A cleaner street scene with less litter and fly-tipped waste may improve desirability and subsequently economic growth and therefore prosperity.

A cleaner environment is beneficial for public health and can potentially reduce risk of infection- e.g. proper disposal of tissues, masks and gloves

### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

The Council will embrace the Environment and Climate Agenda both strategically and globally through its development of footprint reduction initiatives, Climate Action plans and externally delivered services. The Council will strive to minimise negative impacts and optimising positive opportunities delivering our Climate change action plan.

Thousands of cigarettes are discarded in Romford Town Centre every week and hundreds of them find their way into the water courses, drains and rivers. One cigarette can toxically pollute up to 5 litres of water, so hundreds of cigarettes can have a significant impact on the environment locally. Enforcing against those that litter cigarette butts should see a significant reduction in that type of waste and should help protect the environment.

### **BACKGROUND PAPERS**

**None/List**

### **APPENDICIES**

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**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed

*Delete as applicable*

Proposal NOT agreed because

**Details of decision maker**

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

**Lodging this notice**

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_