



## London Borough of Enfield

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<b>Title of Report:</b>	Environment Enforcement Contract
<b>Report to:</b>	Doug Wilkinson, Director of Environment and Street Scene
<b>Date of Report:</b>	August 2023
<b>Cabinet Member:</b>	Cllr Rick Jewell
<b>Directors:</b>	Doug Wilkinson Director of Environment & Street Scenes
<b>Report Author:</b>	Esther.Hughes@enfield.gov.uk
<b>Ward(s) affected:</b>	All
<b>Key Decision Number</b>	KD 5649
<b>Implementation date, if not called in:</b>	Monday 25 September 2023
<b>Classification:</b>	Part 1 & 2 (Para 3)
<b>Reason for exemption</b>	Information relating to the financial or business affairs of any particular person (including the authority holding that information).

## Purpose of Report

1. To seek approval to award a concession contact for Environmental Enforcement Services for the provision of investigations and enforcement in relation to a range of “waste offences.” This will include, but not limited to the issuing of Fixed Penalty Notices (FPNs) for littering, fly tipping, and other waste offences and the preparation of prosecution files where FPNs are not paid.
2. The contract is a concessions contract operated at no cost to the council. The council would not pay for the services but would receive a proportion of the receipts from each FPN that are paid for any of the offences listed in Table 1, and all the costs awarded through any prosecutions.
3. The Council has a duty under Section 89 of the Environmental Protection Act 1990 to, so far as is practicable, keep land and highways clear of litter and refuse.

## Recommendations

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| <ol style="list-style-type: none"><li>1. Approve the award of and to enter into a new Contract following the tendering process to the successful bidder Bidder A (detailed in the Part II report) for the duration of 4 years, with the option of extending 1 year plus 1 year</li></ol> |
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## Background and Options

4. The Council has an existing concessions contract for the provision of enforcement services with Kingdom, this ends in September 2023.
5. Within the contract officers patrol the borough providing a visible deterrent towards waste offences, these authorised officers can issue FPNs for a range of offences, for example dropped litter (e.g., cigarette ends/food wrappers), FPNs are in the main issued on the spot. For FPNs that cannot be issued on the spot, for example dumped waste (black bag(s))/ fly tipping), the contractor undertakes additional investigative work including but not limited to; doorstep interviews, and/or conducting interview in accordance with the Police and Criminal Evidence Act (PACE) 1984 to ensure that legal evidential tests are met.
6. For FPNs issued which are not paid, where the evidential tests are met, and it is proportionate and appropriate to do so, then a prosecution for the substantive offence may be instigated.
7. The long-term objective of the contract, through education and enforcement, is to bring about an improvement to the Borough of Enfield’s Street scene through a reduction in the amount of littering, fly tipping, dog fouling and spitting.

8. This contract is a Concessions Contract with an estimated contract turnover of £3,664,188 over 4years +1, +1. As detailed in the ITT, the turnover will be split between the Council and the provider in the proportions set out in the part 2 report.

### **Procurement Process and Evaluation**

9. The procurement process consisted of a soft market engagement exercise which was undertaken in November/December 2022. As a result of this, five companies expressed an interest in making a submission for the tender. The recommended route to market for this procurement was an Open Procedure due to restricted market and time constraints.
10. The invitation to tender was issued on 26<sup>th</sup> May 2023.
11. Under the Contract the service will operate 7 days a week (04:00-22:00), including public holidays, providing no less than.  
  
1 (one) Team Manager/Supervisor (Monday to Sunday = 56 hours)  
14 (fourteen) Enforcement Officers (Monday to Sunday = 784 hours)
12. The supplier will be responsible for identification, intervention strategies including enforcement at “hot spots” and/or “peak times.”
13. The contract is operated at no cost to the Council, other than for any prosecution work that may result, in provision of this Service.
14. Contract management and performance will be undertaken by a small team of officers within Regulatory Services. These officers will also retain responsibility for dealing with service complaints/enquires/MEQs and provide re-deployable CCTV provision across the Borough for waste enforcement purposes.

### **Preferred Option and Reasons For Preferred Option**

15. To approve the award of the contract to Bidder A following the tendering process. The company have demonstrated they have the capacity and capability to deliver this contract, supporting the Council priorities. Bidder A has in place robust management, quality control, systems, and procedures. In addition, they are committed to providing excellent social value initiatives.
16. It is anticipated that with a robust provider, focussing on quality-of-service delivery, the risk to the Council regarding any failure against agreed Key Performance Indicators (KPIs) and/or breach of contract will be low. This in turn will reduce the impact on the Council costs via anticipated avoidance of excessive contract management and rectification of problems.
17. Provision of a contract that delivers high levels of enforcement at no cost, other than cases that progress to prosecution, and supports the Councils financial position.

## Relevance to Council Plans and Strategies

18. Procurement of an enforcement service for flytipping, littering and other “waste offences” contributes directly towards, Investing in Enfield, Enfield Council Plan 2023-2026:

- **Priority One: Clean and Green Spaces** by keeping our streets and public spaces clean and welcoming. Additionally, the 2022 Labour Manifesto Pledge committed to *“continue to issue fines and prosecute those who fly tip.”*

The provision of environmental enforcement services contributes positively towards clean and green spaces improving quality of life.

- **Priority Two: Strong, healthy and safe communities**

The provision of environmental enforcement services contributes positively towards creating strong, healthy and safe communities. It directly contributes to discouraging the “broken window theory” where visible signs of crime, anti-social behaviour create an environment that encourages further crime.

- **Priority Five: An Economy that works for everyone**

The provision of environmental enforcement services contributes positively towards creating an environment to those who wish to invest in the economy of the borough by creating an attractive place to live and work.

## Financial Implications

19. Please see confidential Part 2 for financial information

## Legal Implications

20. The Council has a duty under section 89 of the Environmental Protection Act 1990 to, as far as is practicable, ensure that the highways and land for which it is responsible are kept clear of litter and refuse. The Council further has the power under section 1(1) Localism Act 2011 to do anything individuals generally may do providing it is not prohibited by legislation and subject to Public Law principles. Additionally, under section 111 Local Government Act 1972 local authorities may do anything, including incurring expenditure or borrowing which is calculated to facilitate or is conducive or incidental to the discharge of their functions. The recommendations in this report are in accordance with these powers.

21. The contract is a below threshold concessions contract as the estimated value calculated in accordance with regulation 9 of the Concessions Contracts Regulations 2016 (CCR 2016) is below the current threshold of

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£5,336,937 inclusive of VAT under the CCR 2016. However, the Council must ensure that it complies with its Constitution, in particular the Contract Procedure Rules (CPR). The procurement process was carried out in accordance with both the CCR 2016 and the CPR.

22. The contracts must be in a form approved by Legal Services on behalf of the Director of Law and Governance and must be executed under seal.
23. The Key Decision process under the Constitution must be followed as the contract value is above the Key Decision threshold of £500,000.

### **Equalities Implications**

24. It is not anticipated that this contract award will have a differential impact on people due to any of the protected characteristics as defined in law. The preferred bidder has potential to explore options regarding payment in instalments, this will assist any persons who is issued an FPN to spread the payment cost rather than paying all at once.
25. Please see Appendix A - EQIA

### **HR and Workforce Implications (if any, delete if not relevant. Include TU consultation if relevant)**

26. As the preferred bidder is the current incumbent, there are no TUPE implications

### **Public Health Implications (if any, delete if not relevant)**

27. The provision of an Environmental Enforcement Service will help to maintain the street scene and thereby contribute to the wellbeing of the borough.

### **Climate Action Implications**

28. Effectively tackling waste offences reduces the environmental impact of waste on our communities, not only the dispersing of harmful plastics, but also contamination from toxic materials and polluting public spaces, contributing to more efficient waste management.

### **Property Implications**

29. The Council will grant access to its head office for the staff provided through this Contract as required. The current location is Silver Street, Enfield, EN1 3ES. The Council reserves the right to relocate the desks to an alternative Civic location if necessary, during the contract period. The Council will provide no more than three "hot desking" spaces at no cost for the Supplier at any one time.
30. Desk space would be for the purposes of non-customer-facing activity e.g., preparation of interviews under caution; prosecution files, written statements, letters, and postal arrangements. If required by the Supplier,

the Council may provide further hot desking at its Civic Offices, subject to the Supplier paying the relevant charges. Additional hot desking facilities shall be for no more than 4 staff at any one time and will not be in designated areas.

31. Access to and use of Council Premises and facilities must be in accordance with the Contract terms.

### **Procurement Implications**

32. The procurement was undertaken using the E-Tendering Portal (ref DN635361) in accordance with the Councils Contract Procedure Rules (CPR's), the Concession Contracts Regulations 2016 and Council's Sustainable and Ethical Procurement Policy.
33. Gateway 3 Award report was presented and endorsed at Procurement Assurance Group on the 10th August 2023.
34. As the contract estimated turnover is over £500k, the service must ensure that sufficient security has been considered to manage risk. Evidence of the form of security required, or why no security was required, must be stored and retained on the E-Tendering Portal for audit purposes.
35. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including arrangements for the future management of the contract. The award of contract must be published on Find at Tender and Contracts Finder to comply with the and the Concessions Contract Regulations 2016 and the Government's transparency requirements.
36. As the estimated contract turnover is in excess of £500,000 the CPR's state that the contract must have a nominated contract manager in the Council's e-Tendering portal.
37. In accordance with the Councils CPR's the service must ensure that a Contract Manager is nominated and allocated to the procurement once uploaded onto the E-Tendering Portal, and that the monitoring requirements are adhered to. The awarded contract must be promoted to Contracts Finder to comply with the Government's transparency requirements.

### **Safeguarding Implications (if any, delete if not relevant)**

38. Enforcement action will not be instigated against any minors.

### **Crime and Disorder Implications (if any, delete if not relevant)**

39. It is hoped that through education and enforcement this will act as a deterrent to persons committing waste offence, improve the overall street

scene and avoid the “broken window theory,” whereby visible signs of crime create an environment that encourages further crime.

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## Appendices

### Part 1 Appendix A – Equality Impact Assessment

Table 1- FPN by Type

Offence	Known As	Current Fixed Penalty Amount
Environmental Protection Act 1990, Section 87 (1) s88	Littering (dropped litter and/or dumped waste (black bag(s)))	£150
Environmental Protection Act 1990, Section 34	Failing to Produce Transfer Notes	£300
Environmental Protection Act 1990, Section 34 (2A)	Household/Domestic waste Duty of Care	£400
Environmental Protection Act 1990, Section 33	Flytipping	£400
Environmental Protection Act 1990, Section 46	Household Presentation Waste Notices	£60
Environmental Protection Act 1990, Section 47	Commercial Presentation Waste Notices	£110
Anti-Social Behaviour, Crime and Policing Act 2014, Section 63 and 67	Public Space Protection Orders ( Dog fouling)	£100
Council Byelaw (made under s235 Local Government Act 1972; & s15 LLA 2004 namely, spitting.	Spitting	£80, reduced to £50 if paid within 14 days

### Background Papers

None



