

**MUNICIPAL YEAR 2015/2016 REPORT NO.**

**ACTION TO BE TAKEN UNDER  
DELEGATED AUTHORITY**

**PORTFOLIO DECISION OF:**

Cllr Ahmet Oykener,  
Cabinet Member for  
Housing & Housing  
Regeneration

**REPORT OF:**

Director, Regeneration &  
Environment

<b>Agenda – Part: 1</b>	<b>KD Num: 4050</b>
<b>Subject: Housing Management Services Tender for Enfield Innovations Limited (9PQH-QTCCUS)</b>	
<b>Wards: Various</b>	

Contact officer and telephone number:

Andrew Wilson, Housing Development and Renewal 0208 379 3687

email: [andrew.wilson@enfield.gov.uk](mailto:andrew.wilson@enfield.gov.uk)

**1. EXECUTIVE SUMMARY**

- 1.1 The Council has undertaken a competitive procurement process to appoint a housing management agent (KD4050) on behalf of Enfield Innovations Ltd (EIL).
- 1.2 EIL, is the Special Purpose Vehicle (SPV) for new build Council homes built for private rent and other tenures on a number of sites. There are 57 homes for private rent and 37 units for shared equity and social rent, currently on site, being developed as part of the Small Housing Sites (Phase 1) (KD3780) project.
- 1.3 The final decision on the management of the private rented units held by the SPV, was delegated to the Cabinet Member for Housing and Estate Regeneration and the Director, Health Housing and Adult Social Care (KD 3890). Since the Cabinet decision the Housing Development and Renewal team has moved to the Environment and Regeneration directorate. As a result the delegation from Cabinet has passed to the Director, Environment and Regeneration.

## **2. RECOMMENDATIONS**

- 2.1 To appoint Pinnacle Places as the successful tenderer to supply the services outlined in the Housing Management Services Tender (9PQH-QTCCUS).
- 2.2 To approve the commencement of the contract from 17<sup>th</sup> August 2015 for a period of four years, with an option to extend by a further three years.

## **3. BACKGROUND**

- 3.1 Small Housing Sites (Phase one), will provide 94 new homes of which 37 will be affordable housing (20 social rent and 17 shared ownership) and 57 homes will be available for private rent.
- 3.2 Small Housing Sites include a mix of 1, 2, 3 & 4 bedroom homes with the first new homes available for private rent due to be completed on 31<sup>st</sup> August 2015 (St Georges Road). Final completions are expected at the end of the year. The schemes are:
  - 9-85 Parsonage Lane, EN2 0AG
  - 22-68 Forty Hill, EN2 9EG
  - 119-135 Lavender Hill, EN2 0RH
  - 50-60 St Georges Road, EN1 4TX
  - 41-63 Tudor Crescent, EN2 0TT
  - 1-18 Jasper Close, EN3 5QG
  - 1-35 Holtwhites Hill, EN2 0RP
- 3.3 For the private rental homes, under the terms and conditions of a Management Agreement with EIL, the managing agent will be responsible for:
  - preparing and issue Assured Shorthold Tenancies (ASTs)
  - carrying out tenant referencing to determine the suitability of the prospective tenant
  - collecting the deposit and one month's rent in advance
  - holding the tenant's deposit in accordance with the Tenancy Deposit Protection Scheme
  - provide an Inventory & Schedule of Condition
  - contacting utility suppliers regarding meter readings and tenancy details
  - receiving rent from the tenant
  - tenancy renewal and negotiation of rental increases
  - Full check out & inventory update at the end of the tenancy
  - Deposit reconciliation

- 3.4 All the rent that is due under the tenancies of the dwellings for the year, whether collected or not, is guaranteed by the managing agent to be paid to EIL.
- 3.5 Irrespective of tenure, the management agent will also provide cleaning of communal areas and the grounds maintenance of all public realm on site e.g. grass cutting. The specification for these services is included in the Management Agreement.
- 3.6 This procurement was conducted under the Public Procurement Regulations 2006 (as amended) and a OJEU compliant procurement process was undertaken.
- 3.7 Twelve companies responded to the initial PQQ evaluation. Responses were scored with a threshold score being required in order to progress. Where compliance could not be demonstrated with the Royal Institution of Chartered Surveyors (RICS) UK Residential Property Standards, in particular evidence of a separate client account, this was deemed to be an immediate failure. Five companies were subsequently invited to tender in the formal Invitation to Tender (ITT) phase.
- 3.8 The ITT was in accordance with OJEU Notice 2014/S 220-389325 issued 12<sup>th</sup> November 2014. The evaluation of tenders was carried out with the price criteria given a 60% weighting and quality, 40%.

Details of the scoring are set out in part 2 of the report.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could decide to cease continuing with the SPV and manage the properties itself either by Council Housing or through Property Services.
- 4.2 The bulk of the units in the Small Sites portfolio will be private rental properties. The Council does not have experience of managing this residential client group so it is felt that a more suitable market oriented service provider would be better placed to manage the units.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 The first site (St Georges), comprising three units of private rented homes, is due to be handed over on 31<sup>st</sup> August 2015.
- 5.2 The primary focus of EIL will be on the management of its assets and the income from the new homes for private rent, will be used to pay back the loan provided by Enfield Council.

- 5.3 In addition, to achieve the market rental income sought, the SPV must have a commercial focus if it is to deliver the high levels of service demanded by private rented sector tenants paying a premium. The appointment of the successful tenderer is intended to deliver the quality of such a service.
- 5.4 Pinnacle Places was the overall top scoring tender Details of the scoring are set out in part 2.
- 5.5 Pinnacle Places was the lowest priced and also scored well for quality, demonstrating the best value for money. The bid demonstrated significant experience with a wide range of clients, including private rented, social housing and shared ownership.
- 5.6 The Evaluation Panel approved of the proposed mobilisation plan and wider resources and expertise that may be utilised within the company, to let the first new homes, including an in-house lettings team. Key strengths of the bid included the management fee, tenancy management and rent collection.

## **6 COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

- 6.1.1 The costs and income relating to this arrangement will be paid for and received by EIL. These have been factored into the EIL Business Plan.

### **6.2 Legal Implications**

- 6.2.1 The Council has power under section 1(1) of the Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction, or limitation contained in a statute against use of the power in this way. In accordance with Section 8 of the Housing Act 1985, and Part 7 of the Housing Act 1996 (as reformed by the Localism Act 2011), the Council is required to consider housing conditions/needs within its area, including the needs of homeless households, to whom local authorities have a statutory duty to provide assistance. In addition, the Homelessness Act 2002 places a duty on local housing authorities to have a strategy for preventing homelessness in their district. In addition, section 111 of the Local Government Act 1972 permits the Council to do anything to assist in the discharge of its powers, which would include the appointment of consultancy services in this scenario.

- 6.2.2 Throughout the engagement of the service provider, the Council must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999.
- 6.2.3 The Council must comply with the Public Procurement Regulations 2006 (PCR 2006). This report confirms that the procurement undertaken is compliant with the PCR 2006. The Council must also comply with its Constitution including the Contract Procedure Rules.
- 6.2.4 As the value of the contract exceeds £250k the Council must follow the Key Decision Procedure.
- 6.2.5 The resultant consultancy agreement must be in a form approved by the Assistant Director of Legal Services and should identify key activities and outputs so that performance can be properly and regularly monitored.

### **6.3 Property Implications**

- 6.3.1 This report proposes the acceptance of a tender for Housing Management Services on behalf of Enfield Innovations Ltd. and as such there are no direct Property Implications for this appointment. However, the duties to be performed by the appointee do have a direct bearing on the proper management of the properties. It is essential therefore that there is a competent technical 'Client' identified for the duration of this appointment. Contract conditions will need to be monitored and enforced, payments certified and provision for possible 'step in' activities to be undertaken in extreme default circumstances.

## **7 KEY RISKS**

- 7.1 The reputational risk of new council homes for private rent remaining unoccupied or a delay in sourcing tenants, will be mitigated through the effective performance management of the managing agent as described in 10.3 and 10.4. Fifteen direct enquiries have already been received from interested local residents since works on sites commenced, without any marketing by the management agent. The internal specification of the new homes has also been enhanced to include white goods to meet the expectations of the private market.

## **8 IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

Small Housing Sites (Phase 1) increases the overall supply of quality, affordable housing including wheelchair accessible units and offers high end quality accommodation for private rent. All new homes will be advertised and prioritised for local people first.

## 8.2 Growth and Sustainability

The appointment of a housing management agent will support the Council's priorities to develop clean, green and sustainable environments. It will also bring growth, jobs and opportunity to the borough by prioritising local people for new homes and using local labour and suppliers where appropriate.

## 8.3 Strong Communities

By increasing the supply of quality homes that the Council can access within the borough and the surrounding area, this will increase opportunities for local residents to access employment and training and thus reduce the likelihood of them requiring additional services from the Council.

## 9 EQUALITIES IMPACT IMPLICATIONS

- 9.1 There is an obligation in the contract for the contractor to comply with the Council's relevant policies and codes of practice in relation to employment and equal opportunities.

## 10 PERFORMANCE MANAGEMENT IMPLICATIONS

- 10.1 As stated in 3.4, all the rent that is due from the tenants of the dwellings, whether collected or not, is guaranteed by the managing agent to be paid to EIL. This approach to the contract reduces financial risk and has a corresponding reduction in concentrating performance monitoring on rent collection. While the ability of the agent to collect due rent is still important and will be monitored emphasis will be placed on other more customer focussed indicators.

- 10.2 The contract will be monitored and information provided by Pinnacle Places at quarterly and annual review meetings. Areas of performance monitoring (and targets where relevant) include:

<b>Area</b>	<b>Target</b>
• rent arrears	
• number of lettings made	
• the length of time that properties are void	7 days target
• time taken to carry out repairs requests	98% in time
• details and number of resident complaints	
• incidents of ASB and type/severity	90% resolved
• gas services completed	100%
• resident satisfaction (by service area)	95%
• cleaning of communal parts	weekly

- 10.3 The managing agent will attend a meeting of the EIL board of directors to present its findings of an annual review. The Council shall also be invited to attend the meeting for the purposes of receiving the report.
- 10.4 Failure to consistently maintain one or more of the Key Performance Indicators will be determined a breach of contract and a Termination Notice can be served. The management agreement will terminate 30 working days after the date of service of the Termination Notice and EIL will be entitled to claim all costs associated with the appointment of an alternative contractor to perform the services.

## **11 HEALTH AND SAFETY IMPLICATIONS**

- 11.1 Health and safety policies of all bidders were considered during the tender process. In addition, there were no direct health impacts on services from this contract.

## **12 PUBLIC HEALTH IMPLICATIONS**

- 12.1 By increasing the supply of good quality housing in the borough across tenures, health and wellbeing of individuals will be improved.
- 12.2 In addition, the managing agent is specifically required to provide opportunities for apprenticeships to learn how to manage private rented stock.

## **Background Papers**

None





**MUNICIPAL YEAR 2015/2016 REPORT NO.**

**ACTION TO BE TAKEN UNDER  
DELEGATED AUTHORITY**

**PORTFOLIO DECISION OF:**  
Cabinet Member for Environment

**REPORT OF:**  
Director – Regeneration &  
Environment

<b>Agenda – Part: 1</b>	<b>KD Num: N/A</b>
<b>Subject:</b> <b>Street Works - London Permit Scheme Changes</b>	
<b>Wards: All</b>	

Contact officer and telephone number: Trevor King / Paul Wilkins  
e mail: [trevor.king@enfield.gov.uk](mailto:trevor.king@enfield.gov.uk) / [paul.wilkins@enfield.gov.uk](mailto:paul.wilkins@enfield.gov.uk)

**1. EXECUTIVE SUMMARY**

This report sets out the implications of changes to the street works permit regulations and what actions are required to be completed to ensure that Enfield's Permit Scheme (which is part of the London Permit Scheme (LoPS)) complies with the new regulations and LoPS continues to operate as a common scheme.

**2. RECOMMENDATIONS**

That approval is given to:

- i) the changes to the London Permit Scheme (LoPS)
- ii) the making of an order to amend the Traffic management (London Borough of Enfield) Permit Scheme Order 2009 to bring the changes into effect.
- iii) the signing of the order to be delegated to the Traffic Manager for Enfield (the Assistant Director – Planning, Highways and Transportation).

### **3. BACKGROUND**

- 3.1 The operation of a permit scheme is essential to the council in order to control and manage access to road space on Enfield's road network. All works promoters (statutory utilities and our own highways contractors) have to secure a permit for their works, thus allowing better co-ordination of works and minimising disruption arising from those works and smoothing traffic flow.
- 3.2 The London Permit Scheme (LoPS) is a common scheme which is operated by all London boroughs and TfL, although each authority has its own statutory instrument to operate the scheme.
- 3.3 The Department for Transport (DfT) has recently consulted on proposed amendments to the existing Traffic Management Permit Scheme (England) Regulations 2007. This is in addition to consequential changes to the permit scheme approval process introduced by the Deregulation Act 2015.
- 3.4 The effect of the changes is set out in paragraph 3.5 below. Enfield as a local highway authority (permit authority) will need to vary its permit scheme by an order, so as to ensure that by 1st October 2015 its permit scheme is in compliance with the Traffic Management Permit Scheme (England) Regulations 2007 ("the 2007 Regulations"), as amended by the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015 ("the Amendment Regulations"). The Deregulation Act 2015 removed the need for Secretary of State approval to permit schemes and these changes can now be made by the making of an order by individual authorities.
- 3.5 The DfT Permit Scheme Advice Note: Implementing changes required by 1 October 2015, issued on 1 July 2015 provides advice on the making of the order. An order template has been approved by DfT, TfL and the Joint Authorities Group (JAG), which London boroughs have also agreed. DfT and JAG have advised that the order should be signed by the appropriate senior officer within each authority.
- 3.6 Listed below are the main areas which have been identified where changes are required to LoPS to ensure that it conforms to the Amendment Regulations and the current published statutory guidance.
- Amend LoPS to account for the National Permit Conditions as set out in statutory guidance
  - Amend the charges section to account for permit charge discount for works undertaken on traffic sensitive streets at non-traffic sensitive times on lower reinstatement category roads
  - Amend the reporting and evaluation section to align with the new statutory requirement in the Amendment Regulations
  - Undertake a review of the whole of LoPS to remove references which are non-compliant with the Amendment Regulations e.g.

reference to the Secretary of State bringing the current version of LoPS into effect.

- 3.7 The LoPS Business Task Force on behalf of all London Boroughs has led a full review of the amendment regulations to identify areas of conflict with LoPS and agree with boroughs the required amendments to ensure LoPS complies with the amended regulations. There is an expectation from the DfT that where authorities are making changes they will undertake a proportionate consultation on those changes. This is being undertaken by the Task Force on behalf of all London boroughs and TfL. This will be finalised by mid-August and any agreed changes will be incorporated into the final version of the LoPS. The timetable for making the changes is as follows: -

10<sup>th</sup> August 2015. Approval by the Cabinet Member for Environment to the LoPS changes in principle and by approval of this report authorisation to make the order.

31<sup>st</sup> August 2015 LoPS amendments confirmed and Order made and signed.

1<sup>st</sup> Sept 2015 Issue LoPS documentation by order to allow for the 4 weeks' notice period required under the Amendment Regulations.

1<sup>st</sup> Oct 2015 Deadline for amendment order to be in place.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

There is no alternative option as not to implement these changes, required by legislation, would result in Enfield failing to have a valid permit scheme and therefore would cease to be able to use permits to coordinate its street works activities and have a significant impact on its ability to carry out its statutory duties.

#### **5. REASONS FOR RECOMMENDATIONS**

The changes are required by legislative changes and necessary in order to continue to run a street works permit scheme.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

- 6.1.1 The total income budget for 2015/16 NRSWA related income is £1.168m; of which £0.740m is expected from Street works permits.
- 6.1.2 It is anticipated that there will be no significant change to the level of income that Enfield receives for permit applications as Enfield has already been operating in accordance with the proposed changes relating to the permit charge discounts for works undertaken on traffic sensitive streets at non-traffic sensitive times on lower reinstatement category roads.
- 6.1.3 Failure to implement the amended regulations will mean that the Council will not be able to operate a street works permit scheme at all. This will not only have a detrimental impact on Enfield's ability to discharge its network management duty, it will also mean that Enfield will not be able to recover any income from permit fees or associated costs.

## **6.2 Legal Implications**

- 6.2.1. The Deregulation Act 2015 removes, in England, the requirement for permit schemes to be approved by the Secretary of State and given effect by Statutory Instrument (SI). The 2015 Act amends the Traffic Management Act 2004 enabling authorities (local highway authorities or strategic highway companies) to make their own schemes and to vary or revoke existing schemes.
- 6.2.2 The 2015 Act provides that a scheme previously given effect by an SI made by the Secretary of State is to be treated as if it had been given effect by an Order made by the highway authority under the amended Traffic Management Act.
- 6.2.3 The Traffic Management Permit Scheme (England) Regulations 2007 ("the 2007 Regulations") have been amended by The Traffic Management Permit Scheme (England) (Amendment) Regulations 2015 ("the amendment Regulations") to reflect changes made by the 2015 Act and other changes to the operation of permit schemes. The 2007 regulations as amended by the Amendment Regulations will apply to all new schemes from 30 June 2015, and to all existing schemes from 1 October 2015
- 6.2.4 The Council as a local highway authority (permit authority) will need to vary its permit scheme by the making of an order under Part III of the Traffic Management Act 2004, so as to ensure that by 1st October 2015 its permit scheme is in compliance with the Traffic Management Permit Scheme (England) Regulations 2007.
- 6.2.5 The recommendations within this report are within the Council's powers and duties

### **6.3 Property Implications**

None

## **7. KEY RISKS**

**7.1** The actions identified in this report will enable Enfield to continue to operate a permit scheme on its highway network and also ensure that LoPS remains a common scheme across London and needs to be done in tandem with the all LoPS members to ensure that the scheme remains a common scheme for London.

**7.2** If the statutory deadline is not met, Enfield will not be in a position to operate a permit scheme and impose a range of conditions that assist in the management and control of street works activities.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The continuance of a compliant permit scheme will allow for effective and efficient coordination of planned activities on the highway network across the whole borough and help the council to deliver excellent customer focused services that are accessible to all.

### **8.2 Growth and Sustainability**

The continuance of a permit scheme is essential to ensuring that the works on the network are coordinated and managed so as to minimize the effects as far as possible on transport movements throughout the borough.

### **8.3 Strong Communities**

Permitting is a key element of an effectively managed highway system, essential for maintaining transport links and supporting strong communities.

## **9. EQUALITY IMPACT IMPLICATIONS**

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment/analysis is not relevant or proportionate for the consideration of form legislative changes to continue with a permit scheme currently in operation.

**10. PERFORMANCE MANAGEMENT IMPLICATIONS**

The LoPS contains a number of performance indicators to monitor and manage the performance of the permit schemes across London.

**11. HEALTH AND SAFETY IMPLICATIONS**

There are no identified health and safety implications from the need to comply with the legislative changes required to continue with a permit scheme.

**12. PUBLIC HEALTH IMPLICATIONS**

The authorisation of the new order giving effect to the continuance of Enfield's permit scheme will assist the authority to continue in its highway network management duty, helping to reduce congestion and associated health issues related to vehicle emissions.

**Background Papers**

None

**MUNICIPAL YEAR 2015/2016 REPORT NO.**

**ACTION TO BE TAKEN UNDER  
DELEGATED AUTHORITY**

**PORTFOLIO DECISION OF:**  
Cabinet Member for Environment

**REPORT OF:**  
Director – Regeneration &  
Environment

**Agenda – Part: 1**

**KD Num: 4182**

**Subject: Setting of a Fixed Penalty amount  
for offences committed under section 48  
of the Anti-social Behaviour Crime and  
Policing Act 2014**

**Wards: All**

Contact officer and telephone number: Sue McDaid

E mail: sue.mcdaid@enfield.gov.uk

**1. EXECUTIVE SUMMARY**

- 1.1 This report seeks approval for setting of the fixed penalty amount for offences committed under section 48 of the Anti-social Behaviour Crime and Policing Act 2014.
- 1.2 Local Authorities are permitted to determine the amount of the fixed penalty up to a maximum of £100. They may also specify a second, lower amount to be paid if the penalty is paid within 14 days – but are not required to do so.

**2. RECOMMENDATIONS**

- 2.1 To agree that the fixed penalty amount be the statutory maximum of £100.
- 2.2 To agree not to apply the early payment option.

### **3. BACKGROUND**

3.1 The Act repealed various pieces of legislation including Section 92 to 94A of the Environmental Protection Act 1990 (such as litter clearing notices, defacement removal notices and street litter control notices). It in effect consolidates all repealed powers through the introduction of Community Protection Notices (CPN). The CPN is a method of dealing with a wide range of anti-social behaviour including for example, allowing land to become defaced by litter and refuse including for example, untidy front gardens.

3.1.1 Section 43 of The Act enables an authorised person to issue a CPN to stop a person aged 16 or over, a business or an organisation committing anti-social behaviour which spoils the community's quality of life.

3.1.2 Authorised persons can be:

- Council officers
- A person designated by the Council
- Police officers
- Police community support officers
- Where it is appropriate, councils can designate social landlords in their area to issue CPNs

3.1.3 The behaviour has to:

- Have a detrimental effect on the quality of life of those in the locality
- Be of a persistent or continuing nature, and
- Be unreasonable

3.1.4 Summary of the Procedure specified in the Act:

- A written warning must be issued informing the perpetrator of the problem behaviour, requesting them to stop, and the consequences of continuing
- If the behaviour continues a CPN is issued including the requirement to stop things, do things or take reasonable steps to avoid further anti-social behaviour, and
- Can allow the local authority to carry works in default on behalf of the perpetrator and recover its cost in doing so
- There is an appeals procedure. The perpetrator may appeal to the magistrates courts within 21 days of being served a CPN

3.1.5 Penalty on breach:

- A breach of a CPN is a criminal offence



- A fixed penalty notice (FPN) can be issued, if appropriate, of up to £100 with an option to pay a lower amount if the penalty is paid within 14 days
- A fine on conviction of up to £2,500 for individuals, or £20,000 for businesses

### 3.1.6 Potential Application of CPNs

As stated CPNs are methods of dealing with a wide range of antisocial behaviour under the Act. A CPN will prove useful in dealing with behaviour that under current legislation is not accounted for. For example:

- noise disturbance could be tackled, particularly if it is demonstrated to be occurring in conjunction with other anti-social behaviour but not behaviour which amounts to statutory nuisance
- where a dog was repeatedly escaping from its owner's back garden due to a broken fence, the owner could be issued with a notice requiring that they fix the fence to avoid further escapes and also, if appropriate, ensure that the owner and dog attended training sessions to improve behaviour (if this was also an issue)

### 3.2 Fixed Penalty Notice (FPN)

When an offence has been committed for which a FPN may be issued, and it is, considering all the circumstances, appropriate to do so, the perpetrator may be offered the opportunity to discharge their liability to conviction for the offence by payment of a fixed penalty. A FPN is therefore, in the first instance, a simple, cost effective method of dealing with lower level criminal offences, including a breach of a CPN. If the penalty is paid, this concludes the matter and no further proceedings can be brought. If however, the penalty is unpaid the perpetrator may be prosecuted for the original offence (breach of CPN).

### 3.3 Setting of Fixed Penalty Amount

3.3.1 Local Authorities are permitted to determine the amount of the fixed penalty up to a maximum of £100. They may also specify a second, lower amount to be paid if the penalty is paid within 14 days.

3.3.2 The Act does not specify what must be considered in setting the level of fixed penalty. However, legislation under section 17 London Local Authorities Act 2004 sets out what may be taken into account when setting levels under that Act which provides a useful steer to determine FPN level for breach of a CPN; these are:

- (a) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of the enactment under which the particular fixed penalty offence is created; and

- (b) the cost, or expected cost, of enforcing the provisions of the relevant enactment.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

If we fail to set the amount for the fixed penalty notice we will be unable to issue FPNs for breaches of Community Protection Notices.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 It is envisaged the process for issuing a fixed penalty for breach of a CPN to be the same as for other offences for which the council currently issues FPNs. Therefore, the same in terms of time and costs incurred in connection with the administration the FPN. However, a CPN requires an additional warning letter to be served before issue of it.
- 5.2 Likewise, it is envisaged any enforcement costs e.g. prosecution costs to be similar to those incurred in prosecuting for other breaches of notices e.g. a noise abatement notice.
- 5.3 The FPN amount for the offences relating to defacement of land by litter and refuse that were repealed was set by the council at £110. It is therefore not unreasonable considering likely overall costs of administering CPNs to set the penalty amount at the statutory maximum, £100.
- 5.4 With regards to setting a second, lower amount if the penalty is paid within 14 days it should be remembered that a CPN would have been issued because the unreasonable behaviour had been ongoing for some time and any informal interventions tried had failed. The penalty therefore should act as a deterrent to non-compliance with the notice. The setting of a lower amount for early payment may encourage payment but may not deter the unreasonable behaviour and would not cover our costs of administering the FPN.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

Community Protection Notices and fixed penalty notices for non-compliance are new enforcement tools available to the council. As such it is difficult to predict how many are likely to be served. However, a prudent estimate would be 50 FPNs to be served in one year, which are paid by the recipient to discharge their liability rather than face prosecution. This will generate modest receipts of £5k that would contribute towards the cost of undertaking the enforcement. The actual

level of income received through the issuing of FPNs will be monitored and reported through the departments' financial monitoring process.

The FPN is proposed to be set at the maximum permitted level of £100. It has been proposed at this level to contribute towards the full cost incurred which meets the criteria stated in paragraph 3.3.2 (a) and (b) above.

## **6.2 Legal Implications**

In accordance with Section 53 of The Act the issuing of a CPN or FPN must be given/issued by an authorised officer of the Council, a constable; or a person designated by the Council.

In accordance with section 52(6) of the Act, a fixed penalty notice must:

- a) give reasonably detailed particulars of the circumstances alleged to constitute the offence; .
  - b) state the period during which (because of subsection (5)(a)) proceedings will not be taken for the offence; .
  - c) specify the amount of the fixed penalty; .
  - d) state the name and address of the person to whom the fixed penalty may be paid; .
  - e) specify permissible methods of payment.
- 7) An amount specified under subsection (6)(c) must not be more than £100.
- 8) A fixed penalty notice may specify two amounts under n (subsection(6)(c) and specify that, if the lower of those amounts is paid within a specified period (of less than 14 days), that is the amount of the fixed penalty.

## **6.3 Property Implications**

None

## **7. KEY RISKS**

No significant risks have been identified. The appeal provisions within The Act place the council at no greater risk than the appeal provisions of other types of notices regularly served by the Council.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

There will be positive impacts for residents and other people visiting

the borough in terms of reduced amounts antisocial behaviour.

## **8.2 Growth and Sustainability**

Application of this legislation will contribute towards creating a more social environment for both residents and business.

## **8.3 Strong Communities**

Application of this legislation will contribute towards creating a more social environment for both residents and business.

## **9. EQUALITY IMPACT IMPLICATIONS**

9.1 The provision of general enforcement services has already been considered as part of the Regulatory Service's retrospective Equalities Impact Assessment.

9.2 Governance of enforcement is through the Regeneration and Environment's Enforcement policy.

9.3 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report to set a Fixed Penalty amount for offences committed under the Anti-social Behaviour Crime and Policing Act 2014.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

None

## **11. HEALTH AND SAFETY IMPLICATIONS**

None

## **12. PUBLIC HEALTH IMPLICATIONS**

CPNs are intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. Effective use of CPNs will improve the quality of life of people who live and work in the borough.

## **Background Papers**

None