

Report to	Partnerships Scrutiny Committee
Date of meeting	27 October 2022
Lead Member / Officer	Cllr Barry Mellor: Lead Member for Waste, Transport and the Environment /Andy Clark: Interim Head of Highways, & Environmental Services/Jamie Lees: Interim Waste and Recycling Manager.
Report author	Tara Dumas (Waste and Recycling Manager)
Title	Update on Environmental Enforcement Services Contract Provision, supplied by District Enforcement Limited

1. What is the report about?

- 1.1. In October 2019, the Council awarded a two-year contract (plus one-year extension) for the supply of environmental enforcement patrols to District Enforcement (DE).
- 1.2. This report provides Members with an update on the progress of this outsourced arrangement at the end of the contract period, and details the future arrangements for continued delivery of these services across the Denbighshire area, highlighting the risks to this outsourced arrangement and how those risks are being managed.

2. What is the reason for making this report?

- 2.1. To provide information regarding current status and the proposed future direction of the Environmental Enforcement Service, and the wider functions that relate to prevention of low level environmental harm.
- 2.2. To provide Members with the opportunity to review and comment on the draft delegated decision report that proposes a number of amendments to the Fixed Penalty Notice amount, relating to a range of environmental offences.

3. What are the Recommendations?

That Members:

- 3.1. consider the information within the report, including the Contract variation extending the current outsourced arrangement with DE to 9th October 2024, and comment accordingly; and
- 3.2. consider and endorse the delegated decision report "*Review of Denbighshire Council's fixed penalty notice fine amounts for environmental crime offences*" so that the Council may continue to deliver environmental enforcement patrols through a cost neutral arrangement (**Appendix I** refers).

4. Report details

4.1. Background

The service provider delivers Environmental Enforcement officer patrols county wide (publically accessed land) for the purpose of raising awareness and issuing Fixed Penalty Notices (FPNs) for low level environmental crime offences. The majority of offences are for littering and contraventions of Denbighshire's Public Space Protection Order (PSPO Dog Control). They also issue FPNs for other environmental offences including fly posting and graffiti and the enforcement of smoke free legislation. The service provider is also responsible for a range of back office support in relation to Fixed Penalties, including managing payment rates and preparing case files for potential prosecutions (for non-payment of FPNs and walk-offs.) They are also required to be the first point of contact for complaints and representations from the public.

4.2. Contract Value

The value of the contract is well under the Concession Contract Regulations 2016 threshold. The Council makes no payment to the contractor and the Contractor retains all income from the Fixed Penalty Notices. Payment rates are currently 85%. Any award secured through non-payment of fines (from cases pursued through the Magistrates court) by the Council is retained by the Council.

The 2019 contract was procured through the Sell to Wales Portal and in accordance with the Council's CPRs. District Enforcement were the only company to submit a

tender. The previous contractor withdrew from their contractual arrangement, which covered a wider area, including other North Walian Authorities due to public and political pressures.

4.3. Contract Variations

Three Variations to the 2019 contract specification came into force on 10th October 2022

- I. To extend the current contract for 24 months (Substantial Variation) to 9th October 2024.
- II. To extend the scope of the contract by including two additional areas of environmental enforcement – initially through two six month pilots. (Not considered a substantial variation);
- III. The inclusion of a “*termination for convenience*” clause, enabling the contractor to terminate the contract with 12 weeks’ notice, should the contract fail to be commercially viable for them. (Not considered a substantial variation)

Appendix II provides the rationale for the adoption of the Variations into the extended contract period. **(Appendix II is exempt from public disclosure by virtue of Paragraph 14 of Part 4 of Schedule 12A of the Local Government Act, 1972).**

4.4. Performance of the Contract and DCC/DE partnership

Appendix III details the latest performance of the DE contract (April to September 2022). To summarise:

473 Fixed penalty notices were issued between 1st April and 30th September.

63% were issued for littering offences

36 % were issued for PSPO (dog control) offences

1 % were issued for smoking related offences

District Enforcement are currently achieving an 85.5% payment rate on Fixed Penalty Notices issued in the Denbighshire area.

A number of improvement areas were identified during the annual review in May 2022. **Appendix III** highlights DE’s progress in addressing these improvements, including additional training for staff, and updating back office procedures to improve response times to customer representations. In addition, the Council has produced new communication materials for the public to raise awareness of the Public Space Protection Order (Control of Dogs). Examples of new, improved signage and a “responsible Dog Owner rewards initiative” are detailed in **Appendix IV**.

District Enforcement now operate an intelligence lead approach to planning patrols, and include hot spots reported to us by the public. An example of a patrol plan is detailed in the DE half yearly report (**Appendix III**).

Regular contract meetings take place to review performance and patrol plans, and discuss behaviour change initiatives relevant to tackling low level environmental crime.

5. How does the decision contribute to the Corporate Priorities?

- 5.1. By continuing to partner with a private sector service provider, the enhanced contract management arrangements and recent Variations ensure we deliver our services in a well-managed and efficient way, in line with the requirements of the Corporate Plan.

6. What will it cost and how will it affect other services?

- 6.1. It is strongly recommended that the activities of the patrol officers and Council's own enforcement team are actively marketed to enhance the promotion of responsible environmental behaviours. A draft Shared Prosperity Fund proposal has been developed to provide additional resources within the council to enhance the education and engagement work, in order to supplement the service provider's own commitments. At the time of writing the outcome of the funding bid is not known. Management of the function (regardless of whether patrol services are delivered externally or in-house) has been identified as a budget pressure that is being managed internally.

7. What are the main conclusions of the Well-being Impact Assessment?

- 7.1. A well-being Impact Assessment for amendments to Fixed Penalty Notice amounts has been carried out and detailed in the Delegated Decision Report.

8. What consultations have been carried out with Scrutiny and others?

- 8.1. The initial contract specification was brought to and endorsed by Partnerships Scrutiny Committee on 14 February 2019, after Cabinet approved the outsourcing of this function 25 September 2018. The subsequent contract variation report to extend the contract period and scope was approved by the Head of Highways Facilities and Environmental Services earlier this month.

9. Chief Finance Officer Statement

- 9.1. There are no direct financial implications of awarding the contract as it is cost neutral and managed via a service level agreement. As outlined in the report any additional staffing changes desired will be managed within the overall service budget.

10. What risks are there and is there anything we can do to reduce them?

- 10.1. There are 7 risks that exist with the current outsourced arrangement (**Appendix V** refers). There are currently 3 amber risks which the Service is confident can be managed down to low risks through additional resourcing and contract management.
- 10.2. There is currently 1 red risk; that DE evoke the “termination for convenience” clause after January 2023, if the arrangement remains financially unviable for them. The current review of fixed penalty notice charge levels for environmental crimes will be critical in reducing this risk.

11. Power to make the decision

- 11.1. No decision is being sought by this report. A proposal to amend the Fixed Penalty Notice charges is currently live through a Lead Member Delegated decision report.
- 11.2. Scrutiny’s powers in relation to policy development and review, performance management and assessing the impact of policies and decisions on the area’s inhabitants are set out in Section 21 of the Local Government Act, 2000 and Section 7 of the Council’s Constitution.

12. Appendices

- 12.1. Appendix I: Draft Delegated Decision Report to Amend Fixed Penalty Notice amounts.
- 12.2. Appendix II: October 2022 Contract Variations (this appendix is exempt from public disclosure by virtue of Paragraph 14 of Part 4 of Schedule 12A of the Local Government Act, 1972).
- 12.3. Appendix III: District Enforcement Performance Report April to September 2022.
- 12.4. Appendix IV: Communications and Campaigns.
- 12.5. Appendix V: Risk matrix (Environmental Enforcement Patrols).