

Report for: Cabinet Member Signing – Non key decisions

Title: Authority to issue required Delegated Authority to issue FPNs as part of Environmental Enforcement Services contract

Report authorised by: Barry Francis

Lead Officer: Beth Waltzer, Head of Recycling, Waste and Enforcement

Ward(s) affected: All

Report for Key / Non Key Decision: Non Key Decision

1. Describe the issue under consideration

- 1.1 This report follows the report to Cabinet at its meeting of 15 November 2024 where it was agreed to award the Environmental Enforcement Services Contract (the Contract) to Kingdom Services Group Limited (Kingdom) for a 1-year contract plus a 1-year extension ("the award decision").
- 1.2 This decision authorises the grant of the authority required for Kingdom, and its employees, to have the authority to issue Fixed Penalty Notices (FPNs) on the behalf of the Authority. This includes authority to issue FPNs under the Environmental Protection Act 1990, Anti-Social Behaviour, Crime and Policing Act 2014 and Highways Act 1980.

2. Cabinet Member Introduction

3. Recommendations

- 3.1 Authorise the Assistant Director Environment to agree variations to the Contract to the extent required to give Kingdom the function and authorise it to issue Fixed Penalty notices and warning notices and require payment of fixed penalties under the legislation set out at 3.2.1 - 3.2.6.
- 3.2 Authorise the Assistant Director Environment to authorise employees of Kingdom to issue Fixed Penalty Notices and warning notices and require payment of fixed penalties under the legislation set out at 3.2.1 - 3.2.6.
 - 3.2.1 S88(10) of the Environmental Protection Act 1990 (EPA 1990), to issue FPNs under s87(1) of that Act EPA 1990;
 - 3.2.2 s33ZA(12) of EPA 1990 to issue FPNs for offences under s33 of that Act

3.2.3 s34ZA(12) of EPA 1990 to issue FPNs for offences under s34 of that Act

3.2.4 s47ZA(10) of EPA 1990 to issue FPNs for offences under s47 of that Act

3.2.5 s68(11) of the Anti-Social Behaviour, Crime and Policing Act 2014 to issue FPNs for offences under s63 and s67 of that Act

3.2.6 s21 of the London Local Authorities Act 2003, to issue FPNs under sections 132(1), 137(1), 139(3), 161(1) and 169(5) of the Highways Act 1980

4. Reasons for decision

4.1 A procurement process was undertaken to find a suitably qualified organisation to provide environmental enforcement services which resulted in Award of Contract to Kingdom in November 2024.

4.2 For Kingdom to undertake the Services as part of the Contract, Kingdom, must have the function of giving notices, and its employees must be authorised to give them.

4.3 Litter and fly-tipping are amongst the biggest concerns for the residents of Haringey, and the issues are noticeable across the borough. Education and enforcement have a significant role to play in reducing the amount of litter and fly-tipping on our streets and changing people's behaviours and attitude.

4.4 Under the 'A cleaner, low waste Haringey' theme of the Council's Corporate Delivery Plan 2024 -2026, the Council has set an activity for 'Enhanced environmental enforcement, including targeted deployed (Monday – Sunday) of proactive litter & waste enforcement patrols in Town Centres and hot spot locations across the borough'.

5. Alternative options considered

5.1 The Council could do nothing, and Kingdom will be unable to issue FPN's as detailed. The Council requires support to enforce this legislation and hence will be at risk of failure to do so.

5.2 The Council could stop undertaking enforcement action against those who are purposefully dropping litter and dumping waste across the borough. Without education and a deterrent, this could lead to an increase in instances of littering and dumping waste across the borough. This would have impacts on other services, such as the street cleansing, but also impact on the satisfaction of residents, businesses and visitors. This would mean that the Council does not complete an activity as set out within the Corporate Delivery Plan 2024 – 2026. Therefore, this is not recommended.

6. Background information

6.1 Following a competitive procurement process, the Contract was awarded to Kingdom in November 2024. The services are due to commence in January 2025.

- 6.2 The paper presented to Cabinet on 15 November 2024, contained provision to give delegate authority to Kingdom to have the function of issuing notices under the relevant legislation. However, on a further review, it was determined that the delegation was not strong enough to allow Kingdom employees to issue notices.
- 6.3 The core services of the Contract are to undertake education with residents to reduce littering, but also to undertake enforcement under the applicable legislation for violations, such as littering.
- 6.4 Updated recommendations have been drafted following additional governance advice and to ensure that Kingdom employees are able to deliver against the Contract when it commences in January 2025.

7. Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes?

- 7.1 This decision relates to the Responding to the Climate Emergency theme of the Corporate Delivery Plan, specifically supporting the outcome areas of A cleaner, low waste Haringey.
- 7.2 This service is set out as an Activity within the Corporate Delivery Plan, to enhance environmental enforcement, including targeted deployed (Monday – Sunday) of proactive litter & waste enforcement patrols in Town Centres and hot spot locations across the borough.

8. Carbon and Climate Change

- 8.1 This decision has no climate change impact, as it solely focuses on a governance requirement for a previous decision.

9. Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)

Finance

- 9.1 The Environmental Enforcement Contract was awarded to Kingdom Services Group Limited (Kingdom) in November 2024 for an estimated total value of £1,396,212 for a 1-year contract plus 1 year extension in line with CSO 9.07.1(d). The expected value of income to the council is £1,396,212 for one year, which is 65.5% of the total income of £3,216,000 that would be generated from issuing the FPN's. The balance 34.5% of the income estimated at £721,188 per year would be assigned to the contractor to cover the costs of providing the services.
- 9.2 The estimation is based on the contractor issuing 1,072 FPNs each year with an average value of £250. The assumption is that 65% of the FPN's issued would be paid within the year.
- 9.3 There are no risks to the council envisaged at this stage.

Procurement

- 9.4 Strategic Procurement have been consulted in the preparation of this report.
- 9.5 A compliant open tender process was undertaken in accordance with CSO 9.01.2 (a) where an advertisement was placed in the public domain for prospective suppliers to submit their tender proposal.
- 9.6 Strategic Procurement see no reason that the Delegated Authority for this contract is approved in accordance with the report.

Head of Legal & Governance

- 9.7 The Assistant Director Legal and Governance has been consulted in the preparation of this report.
- 9.8 The legislation set out in the recommendations requires the giver of the notices to be given the function of doing so and authorised to do so by the Council.; and employees of such a person must separately be so authorised. This was not dealt with in the award decision.
- 9.9 The award decision was a key decision because of the value involved; The recommendations in this report do not affect the contract value and a decision to adopt them is not otherwise a key decision.
- 9.10 The Assistant Director Legal and Governance sees no legal reasons preventing the approval of the recommendations in the report.

Equality

- 9.11 This decision has no equality impact, as it solely focuses on a governance requirement for a previous decision.

10.Use of Appendices

- 10.1 n/a

11.Background papers

- 11.1 n/a