

Gloucester City Council

Meeting:	Cabinet	Date:	12 September 2018
Subject:	Alternative Environmental Enforcement Trial		
Report Of:	Cabinet Member for Environment		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	None		

FOR GENERAL RELEASE.

1.0 Purpose of Report

- 1.1 The purpose of this report is to set out proposals to enter into a 12 month pilot of a new environmental enforcement arrangement in partnership with 3GS (UK) Limited; and
- 1.2 Propose an increase in the penalty charge for dropping litter (including from vehicles) and dog fouling from £50 / £75 to £75 / £100.

2.0 Recommendations

- 2.1 Cabinet is asked to **RESOLVE** that:

- (1) a 12 month contract with 3GS (UK) Limited be entered into to provide an environmental enforcement arrangement to tackle environmental crime in Gloucester in accordance with the Service Specification set out at section
- (2) the fixed penalty notices for the offences of dropping litter (including from vehicles) and dog fouling be increased from £50/£75 to £75/£100.
- (3) officers be instructed to explore all lawful means to maximise the effectiveness of enforcement and offender tracing procedures.

3.0 Background and Key Issues

- 3.1 The 2017 Litter Strategy for England said that street cleaning cost local government £778m in 2015/16. A significant portion of this was avoidable litter clear-up which could have funded other vital public services. Gloucester City Council spends approximately £1m per year clearing litter and fly tipping, street sweeping, litter bin emptying and litter picking.

- 3.2 Public consultation as part of the Litter Strategy also showed that the vast majority of respondents were in favour of increasing on-the-spot fines. More than 85% were in favour of increasing fixed penalties for littering, while local authorities agreed that new penalties to tackle littering from cars would help to improve environmental quality in their area.
- 3.3 In response, this year, new regulations have made it an offence for individuals to mindlessly throw rubbish from their vehicles. Councils are now able to impose fines on the owners of vehicles from which litter is thrown, even if it was discarded by someone else.
- 3.4 The regulations also provide that any surplus income from penalties is ring-fenced to be spent on litter, refuse, environmental enforcement and graffiti including increasing enforcement, purchasing further Rapid Deployment Cameras (CCTV), education and awareness programmes.
- 3.5 A recent Initial Public Space Protection Order (PSPO) Consultation undertaken by the Community Wellbeing Team provided informative data in regards to the percentage of respondents who considered environmental crime as an issue in Gloucester. This is outlined in table 1 below by issue;

Table 1: Initial brief PSPO consultation results

Question/Issue	% of respondents who said it is a problem
Dogs on leads	20
Dog fouling	58
Littering	71
Nuisance or ASB	61

192 respondents: 76.6% of respondents said they are a resident of Gloucester. 29.26% of respondents were people who work in the city.

- 3.6 It can be noted from table 1 that dog fouling, littering and nuisance or Anti-Social Behaviour (ASB) is considered a problem in Gloucester. The respondent's also indicated, as outlined in table 2 below, that these environmental issues should be considered within any future proposed PSPO within the city.

Table 2: Initial brief PSPO consultation results

Issue that should be considered within a Proposed PSPO	% of respondents who agree
Dogs (on leads, out of children's play parks, fouling)	87
Littering	86
Nuisance or ASB	75

- 3.7 The current penalty charge for the offence of dropping litter and fouling of land by dogs is £75. This charge is reduced to £50 for early payment.
- 3.8 Some FPN rates are set and raised by legislation, others can be determined locally by balancing the deterrent effect of different levels of penalty with peoples' ability to pay and the levels of fines imposed locally for the relevant offence in magistrates'

courts. Fixed penalties that are too low compared to the offender's ability to pay will not be an effective deterrent whereas penalties that are higher than the likely fine that the court would impose in the event of conviction, or are too high for local conditions, are likely to lead to more cases reaching the courts, either because offenders cannot afford to pay the fixed penalty, or because they choose not to do so in the hope that the court will impose a lower fine.

- 3.9 This report recommends that the City Council continues the default (full) rates for FPNs as set by The Environmental Offences (Fixed Penalties) (England) Regulations 2017 and retains a reduced (early) fixed penalty payment rate of £75.00 as an incentive for people to pay their fines (regulation 5). (See table below)

Offence	Act/section	Reduced (Early)	Default (Full)
Littering, including from vehicles	EPA 1990 S. 87/88	£75	£100
Dog fouling	ASB 2014 S.43	£75	£100

- 3.10 These recommendations will support our enforcement approach designed to bring about behaviour change and make Gloucester City measurably cleaner and are in line with neighbouring authorities.
- 3.11 **Proposed Service Specification with 3GS (UK) Ltd**
- 3.12 It is estimated that fly-tipping costs the public sector in England nearly £50 million each year and private landowners spend a further £50-150 million or more a year in clean up and disposal costs.
- 3.13 In the last 3 years the council has successfully achieved 22 convictions for fly tipping in the courts. These convictions have been well publicised but this success does not appear to be making a positive impact upon the levels of enviro-crime or its cost. Officers have, therefore explored high impact, low cost alternatives.
- 3.14 One option being pursued by an increasing number of councils is to engage with a partner organisation that can bring a level of focus, equipment and procedures to the process that makes it exceedingly efficient. They deliver a service for the authority by tackling low level enviro crime and penalty income can be used to invest in more effective enforcement, prevention/education and cleansing.
- 3.15 The Council has explored this option with two of the main enviro-crime private enforcement contractors within the UK market place; Kingdom Services Group and 3GS (UK) Limited. Each presented their business models to Cabinet Briefings in December 2017 and March 2018.
- 3.16 Since then officers have explored the potential of a pilot arrangement with 3GS who offer a balanced and compliant service, part of which is to inform and educate communities about the importance of their immediate environment both socially and economically.

3.17 Based on detailed discussions the following pilot service specification has been developed:

- 3GS deploy a fully trained and equipped team of officers. (Three officers initially with a view to introduce a fourth).
- 3GS will cover the wider city centre area e.g. Four Gates Streets, the new bus station, train station, Barton Street plus regular 'bespoke patrols' across the wider Gloucester area in discussion with the council.
- 3GS to operate in conjunction with the police during home games at Kingsholm Stadium
- 3GS can be redirected to respond to issues quickly should the need arise.
- 3GS to be embedded within GCC's City Improvement & Environment Team, all administration is centralised at 3GS HQ in Barnsley. 3GS officers will require desk space locally to complete section 9 statements and other related paperwork.
- Employees to be recruited locally by 3GS.
- Focus to be issuing FPNs for environmental crime offences, namely littering, dog-fouling, abandoned supermarket trollies, fly-tipping and Public Space Protection Orders (PSPO).
- Maximise deterrent effect with uniformed physical presence in hotspot areas and engagement with local people and co-ordination with City Protection officers (CPO's), and other city centre / public realm partners.
- Normal operating hours will be between 07.30 and 19.30 hours. Occasional evening or weekend activity may be required and provided.
- Viability of the service would require 3GS officers to issue FPNs in the region of approx. 4 per day per officer or 20 per week. 3GS and their staff are not incentivised to achieve this figure.
- Hand held devices will capture offender details, images, GPS location. The Council will have access to 'real time' information and will receive monthly reports on all activity including, hot spot mapping, complaints and outcomes and FPN receipts.
- 3GS will provide detailed cost analysis and will retain all FPN receipts until operational break even. Receipts above this will be split 50:50 with the council.
- 3GS provide payment facilities on-line, by phone and post, all related information regarding payment is attached to the FPN's. The council shall be provided the 3GS online payment portal which will be used on our website.
- 3GS personnel to wear uniform bearing 3GS and Gloucester City Council logo.
- 3GS to process non-paid FPNs and provide standard advocacy template files to the Council (OneLegal) to determine and pursue non paid FPNs.
- 3GS will charge £45+VAT per successful prosecution.
- The service is fully flexible and can be adjusted to meet changing demand and new requirements at short notice.
- 3GS will handle all initial phone enquiries and complaints regarding conduct and appeals.

3.18 It is anticipated that the payment rate for fixed penalties issued will be in the region of 75% - 80%. Current policy is to consider the instigation of legal proceedings in relation to unpaid penalties. 3GS will undertake a significant proportion of the case preparation however, the pilot will clearly result in a marked increase in workload for OneLegal. It is considered the team will be able to accommodate this anticipated increase in workload however, the situation will be monitored carefully.

3.19 Subject to consideration and endorsement by Cabinet the earliest date the new service could commence is August/September 2018.

4.0 Asset Based Community Development (ABCD) Considerations

4.1 3GS make a commitment to investing in educational programmes that deliver mind-set changes to the communities where they operate. As a result 3GS have developed four initiatives in conjunction with their Think Clean registered charity to educate individuals to respect and care for their local environment. 3GS believe that over time the necessity to conduct visible enforcement activities will subside significantly if there's a sustained effort to promote and educate residents about the importance their immediate environment has on their health, wellbeing and economic prosperity. The Think Clean initiatives which Gloucester would benefit from are outlined below;

4.2 **'Bin It' initiative** - rewards those who respect the environment, 3GS will offer individuals who they observe disposing of litter and dog faeces correctly the opportunity to enter a free 'bin it' raffle – which is drawn locally every quarter and nationally in December – and is an opportunity for the Council and 3GS to positively promote environmental news.

4.3 **'Street Champions' initiative** - 3GS provides assistance to Local Authorities in setting up Street Champion groups including bespoke training of volunteers, provision of high visibility vests etc. The initiative focuses on engaging and empowering residents to work with the Local Authority identifying street scene, ASB and other local issues that detrimentally affect local communities.

4.4 **'Community Involvement' initiatives** - All 3GS staff are encouraged to volunteer and assist with environmental initiatives/campaigns operated by the Local Authority. 3GS can also assist in advising on potential campaigns with the aim of educating communities on local environmental issues.

4.5 **'Environmental Educational Trust initiative'** – 3GS have now established a new Trust to work with key stage 1 and primary schools to educate future generations about the importance their local environment has to them both socially and economically.

5.0 Alternative Options Considered

5.1 The Council could continue with current arrangements but this would miss an opportunity to apply greater resources to the problem of environmental crime. Alternatively the Council could invest in additional internal resource or outsource the service completely. These options add to cost and risk and are not recommended as an alternative to a 12-month pilot.

6.0 Reasons for Recommendations

6.1 The use of Fixed Penalty Notices is an efficient and effective enforcement tool and a practical alternative to prosecution in matters of low level environmental crime offences.

- 6.2 A pilot with 3GS will test the effectiveness of an increased ability to deal with infringements in a swift, simple, and cost effective way which also reduces demands on officer time to enable them to deal with more serious offences.
- 6.3 Approval of this proposal is expected to have a positive impact on the environment, by acting as a deterrent, raising awareness of the issues and reducing incidents of fly tipping and littering and other small scale enviro crime.
- 6.4 The decision to commission a third party provider will test a cost neutral, robust approach to environmental crime offences.

7.0 Future Work and Conclusions

- 7.1 Following approval by Cabinet, a communications plan will be implemented to ensure that relevant stakeholders, partners, Councillors, residents groups etc. are advised of the new service, how and where 3GS officers will be operating prior to the pilot's launch.
- 7.2 After a period of 9 months it will be necessary to review the pilot undertaken by 3GS (UK) Limited with the view undertake a procurement process prior to continuing any provision for a second year, if the pilot was considered successful.

8.0 Financial Implications

- 8.1 There is no requirement for the City Council to provide additional funding to 3GS if income does not match the cost of enforcement, meaning there is low risk of a financial cost to the council resulting from this proposal.

(Financial Services have been consulted in the preparation of this report).

9.0 Legal Implications

- 9.1 The 3GS personnel undertaking the enforcement activity will require authorisation in accordance with the Council's constitution and scheme of delegation. A Corporate Director is delegated to provide the authorisation.
- 9.2 It is anticipated that the payment rate for fixed penalties issued will be in the region of 75% - 80%. Current policy is to consider the instigation of legal proceedings in relation to unpaid penalties. Any intended prosecution for the non-payment of fine would satisfy the criminal evidential test in terms of proportionality, and achieve the benchmark for the public interest test.
- 9.3 Following the proposed 12 month review any tendering and contract for the provision of the service will need to comply with the Council's Contract Procedure Rules and the Official Journal of the European Union (OJEU) Rules.

(One Legal have been consulted in the preparation of this report).

10.0 Risk & Opportunity Management Implications

- 10.1 The principal risk is that the contractor is perceived to be 'over zealous' and acting for profit. This reputational risk will be mitigated by 3GS's ABCD initiatives and ensuring that expectations are closely matched to local conditions and by making sure that the trial is set up to incentivise the quality not volume of FPNs enforced.
- 10.2 The contents of this report details measures aimed at preventing and/or mitigating the occurrence of environmental crime offences which will be of benefit to residents, communities and wildlife within Gloucester City and will have a positive impact on Local Environmental Quality.

11.0 People Impact Assessment (PIA) and Safeguarding:

- 11.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

12.0 Other Corporate Implications

12.1 Community Safety

There are no community safety implications associated with this report.

12.2 Sustainability

There are no sustainability implications associated with this report.

12.3 Staffing & Trade Union

There are no staffing or Trade Union implications associated with this report.

12.4 Safeguarding

There are no safeguarding implications associated with this report.

Background Documents:

None