

Report of:	Meeting	Date
<p>Cllr Simon Bridge, Street Scene, Parks and Open Spaces Portfolio Holder and Mark Billington, Corporate Director Environment</p>	<p>Cabinet</p>	<p>22 March 2023</p>

Environmental Enforcement Service – New Provider

1. Purpose of report

- 1.1 To seek approval from Members to enter into an agreement with a new provider to deliver specialist enforcement services to address environmental crimes such as dog fouling, littering and other dog control measures under the Public Space Protection Orders.

2. Outcomes

- 2.1 To enable the delivery of cost effective, quality services.
- 2.2 To improve the health and wellbeing of our communities.
- 2.3 To promote a cleaner and greener Wyre.

3. Recommendations

- 3.1 That Members approve the two year environmental enforcement agreement (with a 12-month extension option), with Waste Investigations Support & Enforcement Ltd ('WISE'), on a nil cost basis, with no financial risk to the council.
- 3.2 Members agree to retain the fine for littering fixed penalty notices (FPN) at £100 and continue with the current early payment reduction of £80 for littering fixed penalty notices if paid within 10 days (FPNs remain at £100 for PSPOs without any reduction for early payment).

- 3.3** That delegated authority will be given for fully trained WISE officers to issue FPNs on behalf of the council for the duration of the agreement.
- 3.4** That Members agree to the arrangement as a concessions contract on the basis that “the goods, works, or services are of a specialised nature carried out by only one or a limited number of firms with no reasonably satisfactory alternatives available”, which ensures the agreement remains in-line with existing Procurement Regulations and Council procedures. The agreement would remain in place for 24 months (from 3 April 2023), with the option for a further 12 month extension.
- 3.5** That Members delegate the final details of the agreement to the Corporate Director, Environment in consultation with the Legal Services Manager.

4. Background

- 4.1** Cleanliness standards remain very high throughout the borough, but it is crucial to manage issues of littering, dog fouling and dog control, if we are to maintain or exceed current standards. The council has been working in partnership with a specialist enforcement provider to promote the ethos of a Cleaner, Greener Wyre since October 2018. This arrangement has enabled council Enforcement Officers to deliver campaigns to inform, educate and prevent environmental crime, followed by intervention and enforcement measures where required.
- 4.2** In the 2022 ‘Life in Wyre Survey’, over three-quarters of respondents were satisfied with their local area as a place to live. Satisfaction with individual council services were highest in respect of waste (84% satisfied); promenade and beach (79% satisfied); and parks, playgrounds and green spaces (72% satisfied). Specific questions relating to litter and fly tipping produced a 65% satisfaction rate; satisfaction levels drop to around 40% in respect of ‘tackling dog fouling and irresponsible owners’, indicating that there is still work needed to address this issue.
- 4.3** The current enforcement arrangement comes to an end on 31 March 2023. The incumbent operator gave notice that they wished to end the contract, providing an opportunity for the council to test the market for alternative service provision. Having created an expression of interest opportunity on The Chest, a market engagement exercise was then undertaken to understand the capabilities of the supply market. From this exercise six companies expressed an interest in working with Wyre.
- 4.4** Following discussions and requests for references, two of the providers remained interested in the opportunity and were invited to an informal interview to discuss their offer. WISE demonstrated they could offer the same cost model that we have with the incumbent and also had the best offer in terms of enforcement action and staff to undertake the work. They were selected on the basis that their offer was the lowest risk and offered

the highest reward in terms of enforcement activity and income for Wyre Council.

5. Key issues and proposals

5.1 Working in partnership with an environmental enforcement specialist has given the in-house Environmental Enforcement Officers more opportunities to engage with communities and partners to engender local pride. It has also meant additional capacity to focus on serious environmental crimes that are often complex and time consuming, such as fly-tipping. This will continue under the partnership with WISE, with possible options for additional enforcement support in the future.

5.2 The enforcement model offered by WISE is consistent with the current arrangement and based on the issue of 'on the spot' FPN's for agreed environmental non-compliance. WISE will be responsible for the collection of all payments on behalf of Wyre Council, retaining 84.5% of the income generated; the remaining 15.5% will be passed back to the council, exceeding the 12.5% received under the current arrangement. This is an attractive offer as many contracts are now moving towards an hourly rate of pay and will allow the income generated to be reinvested within the street scene service.

5.3 The basis for WISE's successful operating model is:

- Robust leadership, with a Sector Leader, Team Leader and Senior Enforcement Officer in place at all times.
- Highly trained staff, who are solely employed for environmental enforcement.
- An agreed deployment strategy to ensure all public/member complaints have been investigated and "hot spot" areas patrolled.
- All interaction with a member of the public is captured by high-definition body worn cameras, with footage available for council officers to view, to support the case and safety of officers, and ensure an officer has engaged appropriately with a member of the public.
- Payment rates remain high due to obtaining accurate offender details at the 'point of issue' and the ability to contact the WISE Operational Support Team, who have access to the Lexus Nexis System, with the ability to search up to 160 open-source databases e.g., electoral role and credit agency records.

- Robust processes will remain in place to ensure that non-paying offenders receive reminder letters at 14 and 21 days, with a 3rd and final reminder letter issued at day 26; all representations being investigated and responded to in a timely manner, with court proceedings initiated for non-payment of an FPN, and quality assurance processes being adhered to.
- Transparency is essential, with the council retaining the ability to access all systems and the ability to scrutinise all FPNs issued, correspondence, representations received and responded to, overseeing prosecution files and officer witness statements along with body worn camera footage for all instances an officer engages with a potential offender.

- 5.4** There is no formal appeal process against FPN's. However, Wyre do accept representations from individuals who either disagree they have committed an offence or outline mitigating circumstances surrounding the offence being committed. Representations will be investigated by WISE initially, but should an individual not accept the outcome the matter will be progressed to a Wyre Council Officer for a decision, with Wyre retaining the right to rescind a FPN. If an individual continues to dispute the outcome and decides not to pay the FPN, the matter will then automatically progress to court for a Magistrate to decide the outcome. WISE will produce the prosecution files, with council officers undertaking audit reviews and spot checks. The Wyre Legal Team will progress any cases through the court process, using the streamlined Single Justice Procedure and attending court when required.
- 5.5** WISE will provide dedicated resources to patrol borough-wide, with seasonal fluctuation of resources and administration support. Patrols will be intelligence led to address areas of known concern, complaints from customers and areas of heavy footfall; with every ward visited at least once per month and a minimum of 25% of time spent in parks and open spaces, including the coastal strip and a further 20% in other known areas of concern requiring directed surveillance. Dog fouling will be the key focus, with other littering offences and dog control PSPOs in problem areas. WISE will work with and support the local community and volunteer groups and implement engagement and education initiatives.
- 5.6** It is anticipated that a new service could be mobilised and operational by the 3 of April 2023, subject to approval by Members. The agreement will run for a period of two years, with the potential for a 12-month extension and a termination notice period of 60 days for both parties.
- 5.7** WISE will adhere to all the exemptions in place relating to Public Space Protection Orders.

- 5.8** WISE will meet all requirements of the General Data Protection Regulations and Data Sharing Agreements will be put in place accordingly.
- 5.9** WISE are committed to environmental sustainability and climate change action through their Quality and Environmental Policy which fulfils the requirements of ISO 9001, 14001, relevant legislation and other compliance obligations. WISE recognise that the protection of the environment, the prevention of pollution and the reduction of waste is a priority action for the company. All vehicles to be used on the Wyre contract are fully electric and company directors lease hybrid vehicles to reduce the carbon impact of business travel.
- 5.10** As with all enforcement activity, there is the potential for criticism and negative feedback suggesting an overzealous approach and this will be closely monitored against the contract expectations, with any income received re-invested into cleaner, greener initiatives.

Financial and legal implications	
Finance	<p>The agreement will be cost neutral to the council, with any revenue received invested back in to supporting the cleanliness of the borough through frontline or communications initiatives.</p> <p>The revised 2022/23 and 2023/24 budgets include an estimated £25,000 income from the enforcement contract. This will be reviewed at revised estimates.</p> <p>There is the risk that the number of FPNs enforced will decline over the period of the agreement as the population is gradually made aware that committing environmental offences is not tolerated. If this occurs, then the business case will be re-evaluated and if possible, changes will be made to scale down the service so that the 'no cost' model will be maintained. If such changes are not possible then a further report will follow to determine the best approach.</p>
Legal	<p>Local Authorities are empowered to prosecute under the Environmental Protection Act 1990 for environmental crimes and to prosecute under the Anti-Social Behaviour, Crime and Policing Act 2014 for breaches of Public Space Protection Orders and to operate Fixed Penalty Schemes.</p> <p>The council has the power to authorise a Contractor to undertake these duties on their behalf and will enter into a contract with the Contractor.</p>

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	✓
equality and diversity	X
sustainability	✓
health and safety	X

risks/implications	✓ / x
asset management	X
climate change	X
ICT	✓
data protection	✓

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e., purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

None.