

Agenda item:

Title of meeting: Cabinet
Subject: Street Scene Enforcement
Date of meeting: 26th June 2014
Report by: Chief Executive
Wards affected: All

1. Purpose

- 1.1. To allow the newly formed Cabinet of the recently elected Administration, to review and re-evaluate the street scene enforcement project prior to the anticipated trial with 3GS.

2. Recommendations

2.1 That:

- a.) **the 6 month pilot scheme by 3GS for the delivery of Fixed Penalty Notices in relation to environmental and dog control offences, be abandoned;**
- b.) **The Strategic Director - City Solicitor & Monitoring Officer be authorised, in consultation with the Cabinet Member - Environment & Community Safety and the Head of Service - Transport & Environment, to close any on-going work relating to the implementation of the original resolution.**
- c.) **the Cabinet continue to support work to improve the current approach to enforcement of environmental and street cleanliness issues through the use of existing City Council Teams and the Shared Services Board.**

3. Background

- 3.1. The previous Administration has previously indicated that they wish to pursue the use of a private company for the purposes of issuing of Fixed Penalty Notices (FPN's) for environmental and dog control offences. That Administration had identified a company, 3GS, to deliver the pilot scheme. The proposal was considered by the Cabinet at the 7th April 2014 meeting where it was agreed to move forward with a 6 month pilot and to delegate to the Cabinet Member for Environment & Community Safety and the relevant officers to agree the necessary terms and details of the pilot.
- 3.2 Appendix A contains a copy of this report and provides further detail on the background to the pilot.

- 3.3 A Service Contract for the pilot, with a commencement date of 15 June 2014. However, as 3GS had disputed the terms of agreement the contract was not signed.
- 3.4 Following the election of a new Administration on the 3rd June 2014, Members of the new Administration have been reviewing policies and contracts across the Council, and in particular they have looked closely at the pilot for the enforcement scheme. After further evaluation it is concluded that it would be better to utilise existing internal resources through the Shared Services work to progress improvements around environmental enforcement and at the same time monitor closely other authorities where pilots are underway. Through the positive work being developed with our partners through the Shared Services Board it would be sensible to ensure that any consideration of pilots of this type are more thoroughly evaluated through this process.

4. Equality impact assessment (EIA)

- 4.1 The Council aims to be consistent and even-handed in all regards. Taking enforcement action to deal with environmental crime is not intended to have either a positive or negative impact upon equality and diversity or apply differently to any particular group.

5. Head of finance's comments

- 5.1 Please refer to the Legal comments that set out the potential risk of challenge that could result in Portsmouth City Council having to reimburse 3GS for any costs incurred to date.
- 5.2 If any challenge were to be made and upheld then potentially Portsmouth City Council could be liable for costs incurred by 3GS and would also result in internal resource being employed to deal with the matter. If costs were to be incurred by the Council a source of funding would have to be identified.

6. Legal comments

6.1 Although there has been considerable discussion between the Council and 3GS with relation to the terms of the proposed pilot as neither side has executed the written terms these have not been finalised. Therefore, as no payments have been made to 3GS there is no contract in place between the parties and it is still possible for the Council to withdraw from the proposed arrangements.

6.2 However it should be noted that if 3GS has taken any actions in reliance on the position as they believed it to be, i.e. there was some sort of agreement between the parties then they may seek to recover from the Council any sums expended on the basis

of the legal doctrine of change of position. This would however be speculative on their part but if pursued would result in the expenditure of time and potentially cost on behalf of the Council in dealing with the claim. Accordingly, the risk of this is considered to be low.

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Signed by Chief Executive

Appendices:

Appendix A - Cabinet Report - Street Scene Enforcement (7th April 2014)

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location