

# **Scrutiny & Performance Committee**

## **23 November 2017**

### **Review of 3GS Environmental Enforcement Project**

#### **For Recommendation**

##### **Briefholders**

Cllr F. Drake – Community Safety

Cllr R Nowak – Environment & Sustainability

##### **Senior Leadership Team Contact:**

S Hill, Strategic Director

##### **Report Author:**

Graham Duggan – Head of Community Protection

##### **Statutory Authority**

Environmental Protection Act 1990; Clean Neighbourhood and Environment Act 2005; Dogs (fouling of land) Act 1996; Anti-Social Behaviour Act 2003; Anti-Social Behaviour, Crime and Policing Act 2014

##### **Purpose of Report**

- 1 To provide a review of the environmental enforcement project so that your committee can make a recommendation to Management Committee as to whether a service should continue after the 12-month pilot period.

##### **Recommendations**

- 2 That your committee recommends to Management Committee either;
  1. That a contracted environmental enforcement service should continue after the 12-month pilot period has finished or;
  2. That the contracted environmental enforcement service should cease after the 12-month pilot period has finished and;
  3. That your committee makes any additional comments to Management Committee to help inform their decision.

## Reason for Decision

- 3 The pilot project was established for a 12-month period to allow councillors and officers the opportunity to see how it contributed to keeping streets cleaner and reducing some types of anti-social behaviour. If it is decided that a contracted service should continue, a procurement process will need to be undertaken.

## Background and Reason Decision Needed

- 4 Councillors have been concerned about the cleanliness of the Borough particularly Weymouth town centre, in relation to littering (including chewing gum and cigarette waste) and dog fouling. Maintaining an attractive and healthy environment is important to residents, visitors and the local economy. In February 2017, following a decision by Management Committee and as part of a range of actions, 3GS UK Ltd was appointed to undertake a 12-month environmental enforcement pilot project.
- 5 3GS provide uniformed patrol officers who are authorised by the council to serve fixed penalty notices (FPN) for offences including the dropping of litter (including cigarette waste) and failure to observe provisions contained in the dog related Public Space Protection Order. They have recently been authorised to enforce certain trade waste provisions relating to commercial premises. The philosophy of the service is that the income from fixed penalty notices will meet the costs of providing the service.
- 6 Several councils have followed this route, the nearest being Bournemouth Borough Council. There are two predominant companies in the marketplace, 3GS and Kingdom Environmental Services Ltd, the later having been subject to media scrutiny for allegedly incentivising its staff to serve fixed penalty notices. 3GS are clear that they do not incentivise staff and pay the 'living wage' rate for basic patrol officers. 3GS provide staff training; uniforms; body worn cameras; handheld fixed penalty notice issuing machines and an appeals process for use where a recipient believes a FPN has been issued in error. The council is responsible for ensuring adequate signage of the relevant legal provisions.
- 7 The level of fixed penalty for the main offences are;

<b>Offence</b>	<b>Discounted penalty</b>	<b>Full penalty</b>
Dropping litter (including cigarette waste)	£50 within 7 days	£75
Dog fouling	£75 within 14 days	£100
Dog in excluded area	£75 within 14 days	£100
Dog not on lead in specified area	£75 within 14 days	£100

The levels of the penalties have been set when the council has considered new legislative controls such as with the recently introduced Dog Related Public Space Protection Order.

- 8 From February 2017 to 18 October 2017, 554 FPN's have been issued for the following offences;

<b>Offence</b>	<b>Number of FPN's</b>
Litter - cigarette	447
Litter - spitting	17
Litter - waste	16
Litter – food waste	2
Litter – chewing gum	2
Dog fouling	9
Dog in exclusion zone	40
Dog off lead	21

3GS officers have been patrolling predominantly in Weymouth town centre and that is where the majority of the offences have been witnessed. They do patrol other areas in the Borough. Dog exclusion and dog lead offences have been predominantly witnessed on The Esplanade and the area of the beach covered by an exclusion order.

- 9 The gender of people issued with FPN's were;

<b>Gender</b>	<b>FPN's issued</b>
Male	320
Female	234

3GS officers receive guidance and training about what to do where offences are committed by young people and those who are vulnerable through age and medical conditions, including mental health. Information about how to appeal a FPN is given on the notice.

- 10 402 FPN's were paid at either the discounted or full fine level giving a payment rate of 73%. Instances of non-payment are being considered for prosecution. When the income is assessed against 3GS's business plan, there is currently a small surplus on the project to date. However, the level of income between October 2017 and January 2018 is likely to fall during this quieter period for the resort. In accordance with the service level agreement, a surplus amount at the end of the pilot project will be divided equally between the council and 3GS with the council's proportion being re-invested in litter prevention activities. Equally, if there is a deficit, the council will be required to meet 50% of the amount.
- 11 A high profile enforcement activity of this type will attract complaint, some complaints will be justified and others not. 3GS is an experienced operator and currently provides services for 12 councils. There is a 3GS appeal & complaint procedure and information about this is given on the FPN. 48 appeals/complaints have been made during the period which broadly fall into the following categories;

*Didn't realise it was an offence; didn't see signage; can't afford to pay; vulnerable person involved; didn't see litter bins; no proof of offence.*

The outcomes for appeals and complaints are;

<b>Nature of appeal / complaint</b>	<b>Outcome - paid</b>	<b>Outcome – prosecute</b>	<b>Outcome - withdrawn</b>
Unaware an offence	7	2	4
Didn't see signage	6	2	4
Didn't see litter bins	1		
Can't afford to pay		1	
Vulnerable person	4	1	5
No proof of offence	6	1	
Officer error/attitude	2	1	1

- 12 A number of complainants have been dealt with through the council's complaints procedure when they have been dissatisfied with the 3GS response and/or where councillors have pursued their complaints. The council has used its discretion in some cases. Complaints about the behaviour of 3GS officers have been investigated by the company with oversight by a council manager. The use of body worn cameras has been helpful in conducting investigations and responding to concerns. Undoubtedly, some people have felt anxious when approached by a 3GS officer and this may be exacerbated where a person has a vulnerability which is not readily apparent to the officer. Patrol officers have been complemented by the public; businesses and other service providers for their work and approach to what is a difficult job.
- 13 3GS has experienced problems in maintaining two patrol officers as per the service level agreement and officers from the Bournemouth service have occasionally been used in Weymouth. 3GS state that this is not unusual for this type of service as the role of a patrol officer is a demanding one. Officers have been subject to abuse when on their patrol duties and on social media websites.
- 14 With regard to the streetscene in Weymouth town centre, Dorset Waste Partnership (DWP) report that littering has reduced by approximately 25% during the daytime. This is a subjective assessment as it is not possible to split out town centre street cleansing waste from the general waste stream. Dorset Police; Weymouth Business Investment District; retailers; Weymouth Town Centre Manager and the Beach Manager have all formed good relationships with 3GS officers and have welcomed their work and the uniformed presence in the town centre. The service has contributed to an improved streetscene along with other actions taken by the council. 3GS officers have also been requested to patrol at the Littlemoor Shopping Centre by the site manager.
- 15 The following options are available;
- a. Continue a contracted environmental enforcement service

In addition to the above information;

From November 2017, 3GS officers have been authorised to enforce waste *duty of care* provisions. These provisions require businesses to

store and dispose of waste and recyclates in a responsible and lawful manner. The provisions are normally enforced by Dorset Waste Partnership but due to their resources, enforcement is limited. Improved storage and collection of trade waste particularly in the town centre, will improve the streetscene.

Management Committee has agreed in principle to the establishment of a Community Safety Accreditation Scheme for Weymouth town centre. Jointly funded with the Office of the Police & Crime Commissioner, the scheme would see up to two uniformed patrol officers exercising some community safety and ASB powers delegated by Dorset Police. These officers could undertake some environmental enforcement duties but at a reduced level to that of the 3GS service.

A procurement process will need to be undertaken as the current project was granted a procurement exemption for a 12-month pilot period.

Improvement would need to be made in how instances of non-payment are dealt with as problems have been experienced with the preparation of prosecution files by 3GS. As a result, prosecutions are yet to reach the Court stage. A 3GS legal service was offered at the start of the pilot but was subsequently withdrawn. It has been re-introduced and if a service continues with the company, this will be explored. Advice from the Council's legal services division would be taken to ensure that any prosecution option pursued is authorised in accordance with the Council's Constitution.

b. Undertake all or part of the work 'in-house'

There is currently insufficient in-house resource to replicate what 3GS do. Their high profile and visibility is important in raising awareness and acting to change people's behaviour. Dog Wardens provide patrols that time allows but there has been concern about visibility in the town and especially on The Esplanade and beach.

An environmental enforcement officer could be directly employed and FPN income used to off-set costs. There would be some financial risk to this approach.

The use of the council's Civil Enforcement Officers (car parking) has been discussed previously. There is a reluctance to dilute the focus of these officers but it has been achieved elsewhere.

c. Cease the service

It would be likely that the amount of littering etc. would increase as the effect of the high profile service reduced.

## **Implications**

### **Corporate Plan**

Priority *'Enhancing the quality of life of people living and working in the borough.'*  
Providing a clean and pleasant environment is important for health and wellbeing and for the economy of the Borough and resort.

### **Financial**

Comments in paragraph 10. Provision has been made within the Community Protection 2017-18 budget to address any reasonable shortfall in meeting costs.

### **Equalities**

Comments in paragraph 12. It is important that patrol officers are appropriately trained to recognise vulnerable people and respond appropriately.

### **Environmental**

Addressed in the report.

### **Economic Development**

No comment

### **Risk Management (including Health & Safety)**

As a high profile enforcement service there has been local media coverage and exposure on social media, usually around complaint. There has been less coverage about helping to keep our Borough clean and pleasant and encouraging social responsibility. The service is either seen positively as helping keep the Borough clean or, over burdensome and punitive. Whatever the views, the council has been seen to take action over litter and other health and environmental matters.

Legal comment in paragraph 15. If a service is continued, an improved process for dealing with non-payment issues will be needed.

### **Human Resources**

No comment

### **Consultation and Engagement**

With 3GS UK Ltd and relevant council services.

### **Appendices**

Nil.

## **Background Papers**

Previous reports to Management Committee and Performance & Scrutiny Committee.

## **Footnote**

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

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