

The Vale of Glamorgan Council

Environment and Regeneration Scrutiny Committee: 9th November 2017

Report of the Director of Environment and Housing

Environmental Enforcement: Contract Update

Purpose of the Report

1. To advise Committee of the performance to date of the environmental enforcement contract between the Council and 3GS (UK) Limited.

Recommendations

1. That Committee consider the details of the report.
2. That the report is referred to Cabinet for consideration.

Reasons for the Recommendations

1. To update Committee and to provide an opportunity to review the performance of the contract to date.
2. To provide Cabinet with an opportunity to review the performance of this contract and to consider any observations made by this Committee.

Background

2. On 25th July 2016 (Minute no. 3270 refers) Cabinet approved the appointment of 3GS (UK) Limited, to undertake the enforcement of environmental offences to assist in improving local environment quality (LEQ).
3. The contract with 3GS was signed on the 7th October 2016 and is for a period of 2 years with an option to extend for a further year thereafter. The agreement is cost neutral as 3GS generate their own income by retaining the full value of any fixed penalty notices (FPN's) that are issued.
4. Other than a brief trial period a number of years ago involving a partnership with another environmental enforcement company who has since ceased trading, the Council historically has taken an educational approach to environmental offences with limited written warnings and FPN's issued. However the agreement with 3GS focuses towards a 'zero-tolerance' approach, recognising the strong views of the majority of our residents towards environmental crimes and the fact that the current costs of street cleansing are unsustainable going forward.

5. In addition to environmental offences, the remit with 3GS was extended at the start of November 2016 to include the enforcement of new Bye-Laws at Rhose Point, which prohibit activities such as camping, fishing and swimming.
6. On commencement of the contract, 3GS employed one team leader and three enforcement officers and these were engaged on a Monday to Friday basis, though these times have been supplemented on occasions by periods of weekend and evening working.
7. Ultimately the aim of the contract is to assist in providing environmental improvements for our local communities and this can be judged in a number of ways. Public perception of the cleanliness of an area is most important and there are many factors that could affect this such as the poor management or the inappropriate containment of commercial waste and other environmental crimes such as littering, dog fouling, graffiti and fly-tipping. There is also an independent inspection of street cleanliness undertaken annually by Keep Wales Tidy.
8. The Local Environment Audit and Management Systems (LEAMS) is a street cleaning validation process undertaken across Wales annually by Keep Wales Tidy, and this measures the cleanliness of the local environments in each local authority area by sampling the cleanliness standards of 6% of a range of street types in each local authority area. The assessment is only a snapshot in time and whilst relevant, should be considered alongside the other measures mentioned above.
9. In 2015/2016 the cleanliness index for the Vale of Glamorgan was 69.6 which was slightly above the Welsh average for that time. The index is calculated by dividing the actual cleanliness scores of the streets inspected by the maximum scores available for those streets and then multiplying this by 100. The highest score available therefore is 100.
10. In 2016/2017 the inspections were undertaken in November 2016, very shortly after 3GS commenced their work. The cleanliness score at this time was 66.7, below the Welsh average of 69.3 for this period and this is most likely due to reductions in street cleaning as a consequence of ongoing budget pressures. However it will be interesting to note if this figure has steadied or improved when the 2017/18 LEAMS report is released later in this financial year.

Relevant Issues and Options

11. Since the appointment of 3GS in October 2016 there have been a number of lessons learnt. Initially the officers assigned to the Council had a very different approach to environmental offences than perhaps our officers had anticipated and there was a lot of emphasis on smoking related offences and also a very robust approach taken to certain commercial waste offences.
12. There were several meetings with 3GS's management team in the first 6 months of the agreement and the Council's Waste Management team moved quickly to address concerns associated with the issuing of FPN's, implementing new joint procedures and protocols.
13. Since May 2017, and in consultation with 3GS, the Council's own officers now assist with determining where 3GS's resources operate and what offences their officers should concentrate on.
14. There remains a focus on zero tolerance but with a fairer, more common sense approach aimed at being proportionate to the level of offence. Additionally, the Operational Manager for Waste Management & Cleansing has discretion to approach

3GS and request that a FPN be rescinded if there are doubts whether an offence has been committed and whether it was appropriately and/or ethically issued.

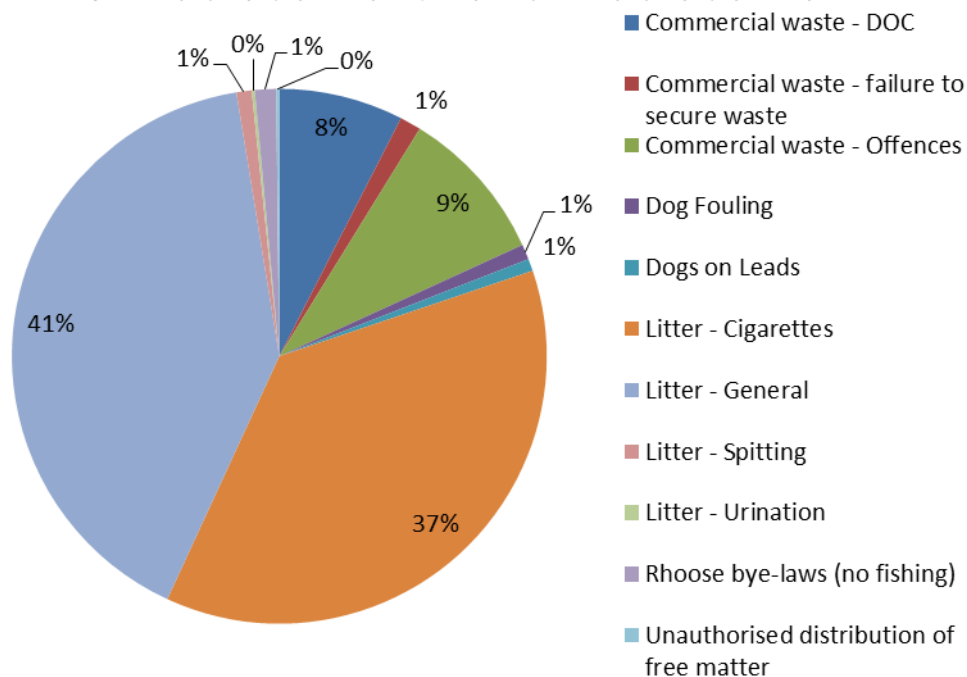
15. It should however be noted that whilst many of the concerns raised in the first few months of the contract related to commercial waste offences, the majority of these have been found to be without justification, as the legislation in this area is clearly defined. Although it was apparent that, for whatever reason, many of the commercial business owners who were issued with FPN's were simply unaware of their legal responsibilities.
16. The Council's Waste Management Team worked through all these concerns with 3GS's Management Team and an agreement was reached to temporarily suspend the enforcement of commercial waste related offences until the Council had time to undertake dedicated awareness campaigns.
17. To ensure that commercial businesses were aware of their responsibilities the Council's Waste Team placed half page advertisements in the local press during December 2016 and letters with advice on commercial waste legislation were distributed to all Vale commercial waste customers reminding them of their duties. The information was also given greater coverage on the Council's website, the Chamber of Commerce was informed and social media messages were sent out through the Council's Communications Office.
18. Additionally, at the start of this financial year, A5 cards were placed in Council Tax Notices for businesses, further reminding them of their responsibilities, and prior to re-launching the commercial waste enforcement service a further half page commercial waste advertisement was placed in the local press and the internet and social media campaigns were re-run.
19. A business operating without a "duty of care" (a formal arrangement that evidences that a business has appropriate collection arrangements in place for its waste) is one of the worst environmental crimes, as it demonstrates that a potential criminal offence is being committed and that the Council is probably subsidising the waste collection either through the domestic black bag collection service via its Household Waste Recycling Centres (HWRC's) located at Atlantic Trading Estate or Llandow.
20. Unfortunately, even after the awareness campaigns, businesses continue to breach their duty of care requirements and to also place waste out for collection indiscriminately and without having due regard to its containment. The result is unauthorised waste being left on the highway for the Council to manage, collect and clean-up which is a significant burden on diminishing resources in terms of street cleansing staff and waste collection and treatment services.

21. Since their appointment 3GS has issued 651 FPN's from their appointment date up until the 13th October 2017 and these are categorised as follows:

Type of Offence	No. of FPN's				Total
	Paid	Awaiting payment	Awaiting Prosecution	Issued in Error	
Litter – General	47	103	71	35	256
Litter – Cigarette	142		60	5	207
Litter – Spitting	2		3	1	6
Litter – Urination			1		1
Dog Fouling	3	2			5
Dogs on Leads	1		3	5	9
Unauthorised issue of free printed matter	1				1
Commercial Waste - Offences	21	11	19	9	60
Commercial - Duty of Care	8	18	15	50	91
Commercial waste – failure to secure waste	3		1	4	8
Rhoose Bye Laws (No fishing)	2		5		7
					651

22. Of the total FPN's issued, 541 have progressed to payment or await prosecution. Of the 541 FPN's a ratio of 37% relate to smoking related litter over the whole year. A breakdown of the offences is represented in the chart that follows:

19th October 2016 to 13th October 2017



23. Since Council officers have taken up a more proactive role (since May 2017) the focus on cigarette litter has dramatically reduced. Although the whole year between 19th October 2016 and 13th October 2017 represents 37% attributed to smoking litter this has dramatically reduced to a total of 3% since 8th May 2017. The reason for the shift is that Council officers have encouraged 3GS officers to focus on commercial and domestic waste indiscriminately left out on the highway, pavements and lanes.
24. Within new parameters it has also been agreed that all operating procedures will be written by the 3GS Regional Manager and not implemented until they have been authorised by the Operational Manager for Waste Management & Cleansing. This ensures that all offences are enforced within agreed procedures, that they reflect local needs and most importantly that they are fair and proportionate.
25. In terms of dog control offences, it should be noted that these will no longer be controlled via Bye-Laws, as the previous legislation has been superseded by Public Space Protection Orders (PSPO's) under the Anti-social Behaviour, Crime and Policing Act 2014 (ABCPA 2014). PSPO's can only be introduced after a period of consultation with relevant stakeholders. This assists in determining the need for the orders and where they would be most suitably located. Officers are currently undertaking a piece of work on PSPO's and this will be the subject of a report to Cabinet shortly. It is proposed that if agreed PSPO's will be introduced early in the New Year with revised controls under PSPO's implemented in the spring and summer of 2018. It is further proposed to utilise 3GS officers to enforce any new controls that come out of this process.

Resource Implications (Financial and Employment)

26. The agreement with 3GS is cost neutral but an annual profit share scheme exists if they cover their costs and overheads.

Sustainability and Climate Change Implications

27. The robust enforcement of environmental crimes will improve the quality of our local environment and reduce the level resource required for street cleaning which will have a positive effect on our carbon footprint.

Legal Implications (to Include Human Rights Implications)

28. Local authorities are empowered under Acts such as the Environmental Protection Act 1990 (EPA 1990), the Clean Neighbourhoods Act 2005 (CAN 2005) and the Anti-social Behaviour, Crime and Policing Act 2014 (ABCPA 2014) to carry out enforcement of environmental offences.

Crime and Disorder Implications

29. The provision of strong enforcement action should act as a deterrent to others from committing offences and reduce similar environmental crimes across the Vale of Glamorgan and eventually have a positive impact on the local environment quality.

Equal Opportunities Implications (to include Welsh Language issues)

30. There are no equal opportunity implications as a result of this report as environmental offences do not have exceptions within the law.

Corporate/Service Objectives

31. This report links to the Corporate Plan and Well Being Outcome W02: An Environmentally Responsible and Prosperous Wales and the relevant Objective is O4 "Promoting Sustainable development and protecting our environment" with relevant reference to ER16 which states "Develop and implement a waste reduction strategy and remodel our waste infrastructure to increase participation in recycling, reduce the growth of municipal waste and meet national targets".
32. The Visible Services and Transport Service Plan (2016 to 2020) reference ER16 seeks to introduce a revised enforcement policy to reduce litter, fly tipping and dog fouling offences.

Policy Framework and Budget

33. This report is within the policy framework and budget.

Consultation (including Ward Member Consultation)

34. As the report is an update on a contract already in place, no consultation has been undertaken.

Background Papers

<https://www.keepwalestidy.cymru/Handlers/Download.ashx?IDMF=4fada00b-343c-416b-a813-b50fb01d7292>

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Officers Consulted

Committee Reports - Legal
Accountant - Visible Services and Building

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