

# ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE

Wednesday, 30 January 2019

Present: Councillor T Jones (Chair)

Councillors	S Foulkes	G Ellis
	J Bird	S Jones
	A Brame	B Kenny
	K Cannon	C Muspratt
	T Cottier	A Sykes
	T Cox	B Berry

In attendance: Councillors L Grey (for T Smith)

## 36 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST / PARTY WHIP

Members were asked to consider whether they had any disclosable pecuniary interests and/or any relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

Members were reminded that they should also declare whether they were subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

No such declarations were made.

## 37 MINUTES

Members were requested to receive the minutes of the Environment Overview and Scrutiny Committee held 29 November 2018.

Councillor A Brame commented that he had not yet received information requested at the previous meeting in relation to the Bates Wells Braithwaite (BWB) report ( Minute 30 refers)

**Resolved – That the minutes be received**

## 38 LOCAL PLAN PROGRESS UPDATE

The Assistant Director for Major Growth Projects and Housing Growth addressed the Committee to provide an update on progress of the Local Plan.

A copy of the report considered at Cabinet on 17 December 2018 was appended to the report detailing the current position. Members were advised that a high volume of responses had been received and that a summary of these responses would be published in February 2019.

The Assistant Director informed Members that Counsel had been appointed in November and had received the position and provided advice. Members heard how Counsel had recommended to the Council that the timetable for the preparation of the Local Plan should be reviewed to ensure that any future decisions are robust, legally compliant and take account of all the necessary evidence base.

Members were then advised that in order to facilitate progress in the preparation of the Local Plan, it was recommended that the Scheme of Delegation be amended to delegate decisions relating to the approval and publication of the evidence base and associated technical reports to the Director of Economic and Housing Growth in consultation with the portfolio holder for Housing and Planning. Members were reminded that decisions relating to the implementation of policy changes would be made by full Council via Cabinet.

Members were then provided with an update following a letter received addressed to the Leader of the Council from Rt Hon James Brokenshire MP, Secretary of State for Housing, Communities and Local Government dated 28 January 2019. In his letter, the Secretary of State set out directions and advised that should the Council fail to comply without a good reason or should the draft Local Plan fail at examination then the Secretary of State would be minded to take over preparation of the Local Plan.

The Chair reminded the Committee that a 'Call In' meeting had been arranged for 7 February so that this matter could be discussed further.

**Resolved – That the Local Plan progress update be noted.**

## 39 OVERVIEW OF ENVIRONMENTAL ENFORCEMENT CONTRACT

Mike Cockburn, Leader Commissioner – Environment, addressed the Committee to introduce an overview of the Environmental Enforcement Contract awarded to Kingdom (2018-2021). He explained that he was accompanied by Mr Michael Fisher, Legal Director at Kingdom who would also be providing a presentation.

The Lead Commissioner – Environment set out the long term journey to drive behaviour change as detailed within the Wirral Plan Pledge 'to create an attractive environment for Wirral Residents and Visitors'. Background information was provided to Members and it was explained that Kingdom won

the tender for Environmental Enforcement Contract after competing with two other companies. The three year contract commenced in August 2018 and included: littering, dog fouling, smoke free, skip permits and trade waste compliance. Members were reminded that the contract was subject to 'call' in which was facilitated and upheld by the Environment Overview and Scrutiny Committee in July 2018.

Members were advised by the Lead Commissioner that full delegation of the Council's enforcement powers had been given to Kingdom with full compliance of the Council's Enforcement Policy with a zero tolerance instruction. He informed the Committee that robust contract management framework, protocols, complaints and appeal processes are adhered to and that regular contract management meetings are being held.

Members were then informed that details of the Environmental Enforcement Contract (redacted), comprehensive set of FAQs and monthly performance reports are available on the Council's website. Information was provided of fixed penalty notices issued in December 2018 detailing offences under age banding categories, demonstrating how the largest proportion of offences were committed by age group 20-49. Interactive maps were shown to detail litter and dog fouling fixed penalty notices (FPN's) that had been issued in the last 36 months. Details of contract performance with regards to littering and dog fouling were also available to Members.

Details were then provided regarding income generation and Members were advised that Wirral Council retains income generated through court costs from prosecutions against offenders of environmental crime. Members then heard how over the past four years income generated had been re invested back into Environmental Improvement Programmes such as tackling 'grot spots', funding the 'Love Wirral' brand, litter bin provision and the 'Love Where You Live' volunteers support programme.

The Lead Commissioner set out current and ongoing operational issues and assured the Committee that allegations of misconduct made against Kingdom Officers are fully investigated. He further advised that Kingdom Officers are suffering from acts of violence, aggression and ridicule on a daily basis and these are subject to ongoing police and community safety investigations.

In response to questions by Members, Mike Cockburn advised that there are a number of campaigns groups and a heavy social media presence against the work of Kingdom Officers, particularly prevalent in Birkenhead Town Centre. He then then informed that the Council are contracted to still pay Kingdom if a fine is not paid. He further advised that fines should not be enforced for accidental littering and informed that no action is taken against minors who drop litter, but acknowledged that this remains a problem outside some local schools and colleges and work is ongoing alongside local schools to target this behaviour.

In response to comment from a Member regarding vulnerability of some adults, not only by reference to age but also with regards to their mental and physical health, the Committee heard that anyone can appeal on medical grounds if they are issued with a FPN. They were then advised that if the appeal is successful fines can be rescinded. A further comment was raised regarding the disproportionate number of FPN's issued due to dog fouling as opposed to dropping cigarette butts and Mr Cockburn agreed that further work needs to be conducted to issue FPN's for dog fouling. However dog fouling detection is difficult and optimum numbers of FPNs issued would run to several hundred maximum.

In response to a further comment, Members were advised that aside from enforcement, there are other initiatives within the Lead Commissioner's remit including eco schools, the 'Love Wirral;' brand and community interaction.

A Member queried the 'members' enquiries reporting function' and asked how many complaints regarding littering and dog fouling had been reported through the CRM system. Mr Cockburn advised that he would obtain this information and report back. Mr Cockburn also advised that he would report back on a question raised regarding proportion of payments to the Council and proportion of payments to Kingdom following issuing of a FPN.

Mr Michael Fisher, Legal Director at Kingdom then provided a presentation to provide Members with background details to the overall management of Kingdom. He advised on overall services provided and advised that Kingdom had been awarded contracts to thirty five Local Authorities and have a workforce of 200 across the LA's. He explained that Officers combined conduct an average of 8,000 enforcement hours per week.

Mr Fisher provided details on team deployment and equipment provided to Officers including bodycams and mobile devices. He informed Members that bodycam equipment is not to film an offence but to capture the interaction between Officers and an offender following enforcement. He also provided details of intelligence and set out locations where FPN's had been given within areas of Wirral. Offence types were categorised and it was reported that the majority of FPN's (74.3%) had been issued for 'LitterDep- Cigarette' Data was then given of offences categorised into age, gender and ethnicity.

Mr Fisher then explained that in addition to Officers on patrol there is also an administrative member of staff who deals with prosecution files, FPN information, letters, complaint management and reports. Examples by screen shots were provided to Members detailing how issues are logged, dealt with and retained.

Members heard from Mr Fisher that Kingdom had recently entered into a partnership with 'Clean Up Britain' and had sponsored the 'Now or Never'

Behavioural Change Project in Leamington Spa, Warwickshire in connection with Clean up Britain and will be a live test-bed incubator unit to research, identify and experiment with new ideas aimed at persuading people to stop dropping litter and use less plastic. He then informed that in 2019, Kingdom would be going out to the local communities to provide education in the prevention of litter.

Responding to comments by Members, Mr Fisher advised that DEFRA guidelines are followed and balanced alongside the policies of the Local Authority to which Kingdom carry out enforcement work for. He then advised that he would follow up a query from a Member about low levels of enforcement in Bidston and St James Ward despite litter dropping being evident.

Responding to further comments and questions, Mr Fisher informed that Officers are not currently advised to ask the offender their ethnicity, but rather to use their own discretion, he offered that if could be deemed to inappropriate the practice can be stopped forthwith. He informed that all Officers are paid an hourly rate above the living wage rate and payment is not linked to numbers of FPN's issued. He agreed with Members that more proactive work needs to be undertaken to target dog fouling, both in terms of locations and times. He explained that targeted areas can be in response to intelligence.

In response to a question, Mr Fisher advised that he would provide details of Officer training modules and programmes and how Kingdom monitor their Officers to ensure that they are following guidelines. He informed the Committee that there is a training induction programme for new Officers with initial training lasting five days followed by a period of buddying up with experienced Officers and a twelve week probation period.

A Member suggested that an advocacy service be consulted with by Kingdom and worked alongside to address issues such as complaints against Officers as it was acknowledged that social media campaigns can be powerful and cause distress to individuals.

Comments were raised about vulnerability of adults, in relation to other factors aside from age and gender such as mental health and it was acknowledged and reiterated that any individual can appeal on health grounds.

In response to a question raised about the termination of the Enforcement Contract at Liverpool City Council, Members heard how this was due to a change of policy at Liverpool and that a clause in their contract stipulated that the Council could terminate the contract with sixty days notice. He then advised that a total of eleven Kingdom Officers are employed as part of the Wirral Council contract.

Comments were raised by a Member in relation to GDPR compliance with particular reference to the use and retention of body cam footage and Mr Fisher advised that he would seek further clarification on this matter with colleagues and report back. In addition, Mr Fisher agreed that Officers should not be following individuals who were not compliant in providing a name or address, however members of the public should be advised to give their name and address to officers and in not doing so they are committing a further offence if the police were involved in the matter.

A Member raised the issue of external regulation and asked for assurance that Kingdom is subject to external regulation and also enquired into trade union recognition by the company. In response, Members heard how the Council regulate through the use of the internal audit section and that Kingdom have a Standards Committee and fully engage with the Information Commissioner. Mr Fisher advised that he would report back regarding trade union involvement.

**Resolved (13:1) That:-**

- (1) members of the Environment Overview and Scrutiny Committee thank Kingdom and members of the public for their attendance;**
- (2) the discussion points be formulated from this meeting into a full report by Officers and be brought to the attention of the Cabinet; and**
- (3) this Overview and Scrutiny Committee continue to monitor performance of Kingdom throughout the duration of the contract.**

40 **BUDGET PROPOSALS**

A report by the Chair of the Committee presented the findings of two scrutiny workshops for the Environment & Scrutiny Committee in relation to scrutinising the 2019/20 budget proposals. Budget proposal workshops for Members of the Environment Overview and Scrutiny Committee were held 4 December 2018 and 16 January 2019 and provided the Committee with the opportunity to examine in greater detail a number of budget proposals affecting services that fall under the remit of the Committee.

The report set out budget proposals as follows: Expert Operator of the Floral Pavilion and Expert operator of the golf courses. Summaries of Member and Officer comments were detailed within the report.

On a motion by Councillor A Sykes and seconded by Councillor Lewis it was:

**Resolved (8:4: with two abstentions) That-**

- (1) committee is concerned that all options have not been explored to make the golf courses listed viable in this proposal; and
- (2) committee is concerned that Brackenwood Golf Course is at a higher risk of being left as a cost to the Council budget, leading to greater risk of sale for development as the only viable future option, if excluded from the proposal, therefore, Committee urges the Cabinet Member to either withdraw this proposal, or only consider this option as a group of three golf courses including Brackenwood

#### 41 **ENVIRONMENT O&S COMMITTEE WORK PROGRAMME**

A report by the Chair of the Committee explained the process of developing and managing the Scrutiny Work Programme for the municipal year. Members were advised that the Environment Overview and Scrutiny Committee, in cooperation with the other three Overview and Scrutiny Committees is responsible for proposing and delivering an annual Scrutiny Work Programme.

A Member requested that homelessness be considered as part of the work programme.

A Member expressed her thanks to Mark Camborne and his team for the organisation of a conference at the Floral Pavilion regarding Modern Slavery.

**Resolved – That the work programme be agreed with the addition of a homelessness to be considered.**