

Public Document Pack

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A meeting of **Public Facing Environment Panel** will be held in Zoom on **Monday 22 April 2024 at 9.30 am**

MEMBERS: Mr J Brown (Chairman), Mrs H Burton, Mr M Chilton, Ms H Desai, Mr F Hobbs, Mr S Johnson, Mr C Todhunter and Mr T Young

AGENDA Part 1

- 1 **Chairman's Announcements**
Any apologies for absence that have been received will be noted at this point.
- 2 **Declarations of Interest**
Members are to make any declarations of disclosable pecuniary, personal and/or prejudicial interests which they might have in respect of matters on the agenda for this meeting.
- 3 **Approval of Minutes** (Pages 1 - 5)
The minutes relate to the meeting of the Environment Panel held 4 March 2024.
- 4 **Environment Enforcement Contract Tender Invite and Fixed Penalty Rates**
(Pages 7 - 12)
The Panel is requested to consider the report and appendix and make the following recommendation:
 - 2.1 That Environment Panel recommends to Cabinet to:
 - (a) Approve a tender process for the provision of a range of environmental enforcement functions as a commercial concession contract; and
 - (b) Approve raising the Fixed Penalty Notice charge for a littering offence and Public Space Protection Order Dog Control offence to £150, reduced to £100 where the offence is discharged within 14 days, and other Fixed Penalty Notice and Penalty Charge Notice charges as listed at Appendix 1.
- 5 **Environment Panel Workplan** (Page 13)
The Panel are requested to note any items for the upcoming meetings.
- 6 **Late Items**
The Environment Panel will consider any late items as announced by the Chairman under Agenda Item 1.
- 7 **Next Meeting**
The Panel is requested to note that the date of the next meeting is Monday 24 June 2024 at 9.30am in the Committee Rooms.

NOTES

1) The press and public may be excluded from the meeting during any item of business wherever it is likely that there would be disclosure of 'exempt information' as defined in section 100A of and Schedule 12A to the Local Government Act 1972.

2) The press and public may view the report appendices which are not included with their copy of the agenda on the Council's website at Chichester District Council - Minutes, agendas and reports unless they contain exempt information.

3) Subject to Covid-19 Risk Assessments members of the public are advised of the following;

- Where a member of the public has registered a question they will be invited to attend the meeting and will be issued a seat in the public gallery.
- You are advised not to attend any face to face meeting if you have symptoms of Covid.

4) Subject to the provisions allowing the exclusion of the press and public, the photographing, filming or recording of this meeting from the public seating area is permitted. To assist with the management of the meeting, anyone wishing to do this is asked to inform the chairman of the meeting of their intentions before the meeting starts. The use of mobile devices for access to social media is permitted, but these should be switched to silent for the duration of the meeting. Those undertaking such activities must do so discreetly and not disrupt the meeting, for example by oral commentary, excessive noise, distracting movement or flash photography. Filming of children, vulnerable adults or members of the audience who object should be avoided. [Standing Order 11.3 of Chichester District Council's Constitution]



Minutes of the meeting of the **Public Facing Environment Panel** held in Committee Rooms, East Pallant House on Monday 4 March 2024 at 9.30 am

Members Present: Mr J Brown (Chairman), Mr F Hobbs, Mr S Johnson and Mr T Young

Members not present: Mr M Chilton and Mr C Todhunter

In attendance by invitation:

Officers present all items: Ms S Osman (Environment Officer), Mr A Frost (Director of Planning and Environment), Mr S Ballard (Senior Environmental Protection Officer), Mr T Day (Environmental Strategy Manager), Dr Andrea Smith (Climate Change Officer), Ms A Stevens (Divisional Manager for Environmental Protection), Miss M de Silva Puttick (Democratic Services Officer), A Alempour (Democratic Services Officer) and Mrs J Hotchkiss (Director of Growth and Place)

8 **Chairman's Announcements**

Apologies were received from Cllr Chilton and Cllr Todhunter.

9 **Declarations of Interest**

Cllr Hobbs declared that he is the Chair of Great Sussex Way.

Cllr Johnson declared that he is on the Chichester Harbour Conservancy Board and a member of Chidham and Hambrook Parish Council.

10 **Approval of Minutes**

Minutes from the meeting on 14 December 2023 were unanimously approved with one amendment:

Ms Klepacz said that there is a risk of coastal flooding shared by local authorities across the country and that if nothing is done, one thousand homes will be at risk, with a further six hundred buildings **at risk** in the next one hundred years.

Minutes from the meeting on 29 January 2024 were unanimously approved.

11 **Energy Procurement**

Cllr Brown introduced the item by saying that the deadline for signing a new contract with the Council's current energy procurers (LASER) was 31 March 2024. The council was keen to ensure its energy procurement resulted in actual greenhouse gas emission reductions. Officers had been looking into an alternative green electricity tariff, but the financial cost could not be quantified and there was uncertainty over the quality-of-service delivery and issues to be resolved with the procurement process. Therefore, this option was not recommended at this point. The recommendation was to enter a one-year contract with LASER with the option of a further year, during which time officers would continue to explore the options.

Mrs Hotchkiss had no further comments to add but confirmed that the report will be going to Cabinet the next working day. The recommendation was unanimously approved by the Panel.

RESOLVED: The Environment Panel agreed to recommend to Cabinet to:

(a) Resolve to continue as a participating authority in a tripartite contract with the LASER Energy Buying Group and enters into a 'purchase in advance' contract for a minimum of 1 and maximum of 2 years with effect from 1 October 2024, with the inclusion of the data and reporting bureau service.

(b) Delegate authority to the Divisional Manager for Property and Growth in consultation with the Cabinet Member for Property and Regeneration to extend the contract into the second year, with effect from 1 October 2025, if required.

(c) Note that a further report will be brought to Cabinet from officers on completion of a full assessment of the options to procure energy in a way that is likely to lead to greenhouse gas emission reductions from CDC's energy use.

12 **A259 Chichester to Bognor Regis Scheme - Stage 1 Consultation**

Cllr Brown introduced the item, that this was a stage 1 consultation on an active travel scheme and if pursued, the council will receive a detailed consultation to respond to. He asked how much of the scheme is lit already.

Cllr Johnson asked how the consultation was devised.

Cllr Young voiced concerns about bike lights and sensitive lighting. He considered that if lighting was necessary, it would increase the cost of the scheme and impact the environment.

Mr Ballard confirmed that the consultation had been designed by officers. He explained that WSCC will have regard to LTN120, but thought any lighting was to address safety and security issues.

Cllr Hobbs stated that the scheme should be made as easy to use as possible as it will improve connectivity.

Mr Ballard agreed to let WSCC know that we feel a balance is needed between lighting, safety and biodiversity.

RESOLVED

That Environment Panel supports WSCC's A259 Chichester to Bognor Regis Corridor Scheme.

13 **Climate Emergency Action Plan Going Forward - Consultation Approval**

Cllr Brown introduced the item. He stated that it is important to acknowledge that not all projects can be delivered by Chichester District Council. Residents will be asked to rank their concerns by priority and the final design of the consultation document will be agreed after Cabinet. It was noted that the council was not meeting the current targets and some of the projects included in the consultation, may not go ahead if funding cannot be obtained.

Mr Day stated that the plan was developed alongside Divisional Managers from all services in the council. He stressed that prioritisation is important and that we should try to explain to the public the costs and carbon saving to give some context. It is also important that for the key projects we gear up for further funding opportunities should they come forward.

Cllr Young commented on net zero emissions and carbon reduction projections, particularly that the most radical policies now will look moderate in the future. He also stated that we need to be preparing local businesses for the future as governments are to prepare for carbon tax and reward schemes.

Cllr Brown stated that it is important to remember that this is a consultation and not a referendum; where the intention is to test the waters amongst communities, and that the focus needs to be on reducing carbon emissions as opposed to adapting to them.

Cllr Hobbs commented that the real challenge is to take people with us as there is an impact on people's lives from all climate actions so it is important to keep the trust of the public. The cost of the consultation at £15,000 is a good step in the right direction but we need to demonstrate what value we get from that investment. We also need to have a clear idea of what the outcomes will be from any resources we employ, and we must prepare local communities for the change Governments will have to force on us.

Cllr Johnson stated the importance of balance, leadership and presentation amongst the community and that the process of reducing carbon emissions goes hand in hand with mitigation.

Ms Osman stated that it is important to work with and lead parish councils regarding changing behaviour in communities. All projects will come forward to Cabinet with a business case for its consideration.

RESOLVED: The Environment Panel agreed to recommend to Cabinet to:

(a) approve the consultation content as outlined in Appendix 1; and

(b) approve the consultation process and budget Option 2 - £15,000 as outlined in Appendix 2

14 **Three Harbours Strategy Consultation Response**

Cllr Brown introduced the item and stated that the focus should be on where the Council can offer support. He asked whether Pagham had been assessed regarding extending the Climate Emergency Action Plan inland, and what the role of local government is in the process.

Cllr Johnson commented that the strategy incorporates multiple initiatives including adaptation.

Mr Day stated that the strategy has been prepared by a partnership of agencies. Planning agents are liaising with landowners and coordinating engagement within local communities regarding the arising challenges. The wide partnership brings in relevant bodies and the appropriate arrangements.

Ms Stevens stated that the Chichester Harbour Investment and Adaptation Plan focuses on coastal issues, and that it is more of an action plan that tackles specific problems as they arise, as opposed to a strategy. Chichester Harbour is already in unfavourable condition, however a similar habitat project will need to be developed in regard to Pagham once its habitat status is known.

RESOLVED: The Panel agreed to:

Recommend to Cabinet that the draft consultation response in Appendix 2 is submitted as the Council's response, subject to any comments made by Panel members.

15 **Late Items**

There were no Late Items.

16 **Environment Panel Workplan**

The Panel noted the workplan.

17 **Next Meeting**

The Panel noted the date of the next meeting as Monday 22 April 2024 at 9.30am on Zoom.

The meeting ended at 10.52 am

CHAIRMAN

Date:

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Chichester District Council

ENVIRONMENT PANEL

22 April 2024

**Environmental Enforcement Contract Tender Invite
and Fixed Penalty Rates**

1. Contacts

Report Author:

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Cabinet Member:

Jonathan Brown - Cabinet Member for Environmental Strategy
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2. Recommendation

2.1 That Environment Panel recommends to Cabinet to:

- (a) Approve a tender process for the provision of a range of environmental enforcement functions as a commercial concession contract; and**
- (b) Approve raising the Fixed Penalty Notice charge for a littering offence and Public Space Protection Order Dog Control offence to £150, reduced to £100 where the offence is discharged within 14 days, and other Fixed Penalty Notice and Penalty Charge Notice charges as listed at Appendix 1.**

3. Background

- 3.1 The Council is a Principal Litter Authority and has a duty to keep relevant land in the open air, to which the public have access, clear of litter and debris (as per the Environmental Protection Act 1990). Litter includes cigarette butts, chewing gum, dog fouling and dog poo bags.
- 3.2 Between 2018 and February 2024 the Council had an inter-authority agency agreement (a 'Section 101 Agreement') with East Hampshire District Council (EHDC) for the enforcement of litter and Public Space Protection Order Dog Control (PSPO) offences. EHDC no longer offers this service and there is no equivalent market offer and so if the Council wishes to continue with this work, it must find an alternative provider, which may be tendering to appoint a contractor.
- 3.3 Whilst inviting tender submissions it is timely to expand the scope of offences for which the contractor would enforce (see Appendix) although it is intended that the contract will predominantly remain a litter enforcement contract in relation to Fixed Penalty Notices (FPN's) issued. The intention is that the contractor will also investigate fly-tips and duty of care for waste on the Council's behalf.

- 3.4 It would also be timely to revise the Council's FPN rates for littering in line with the Government's 2023 amended Environmental Offences Regulations which allow for the upper limit of FPN's for littering to increase to up to £500. At the same time, we would take the opportunity to increase FPN rates for PSPO offences and to publish FPN rates for offences not included in the previous arrangement (see Appendix). The increase in FPN rates would assist in attracting a commercial provider and establishing a sustainable service.
- 3.5 The intention is that the contract will provide for a team of trained, uniformed enforcement officers, working in pairs, to carry out enforcement in Chichester District seven days/week between the hours of 09:00 and 17:30 (or daylight hours whichever are shorter) every day of the year except for Christmas day. The contractor would provide transport for the officers, body-worn cameras to record their interactions with the public, technology to enable the issue of FPNs, back-office systems, handle all complaints and related legal work, money handling services and pay across a fixed percentage of FPN revenue to the Council on a monthly basis. The contract would be at zero-cost to the Council which would authorise the contractor's officers to issue FPN's on its behalf.
- 3.6 Whilst the emphasis of the contract would be on the provision of enforcement within office hours there would be flexibility to request out of hours work and to target specific locations both in a programmed way and real-time on a day-to-day basis by instruction from the Council on the basis of intelligence received. This arrangement would provide 'directable' enforcement when required. Officers could also be deployed from time to time to deliver awareness type interventions.
- 3.7 Litter and PSPO Dog Control Enforcement would not be applied to persons under the age of 18 and persons who may be judged to lack capacity. Exemptions also apply for dog fouling and dog exclusion zone offences, for persons registered as blind and/or with assistance dogs and/or disabilities. The Council will have access to body-worn-camera footage in order to be able to audit the quality of officer interactions especially, but not solely, on receipt of complaints.
- 3.8 Other authorities in West Sussex and across the UK are using commercial providers for environmental enforcement services. These services are reported to provide a modest revenue stream for those authorities. Recently published Government regulations ring-fence revenues received from the payment of fines related to certain offences to paying for defined activities such as picking up fly-tipped waste.
- 3.9 The Council will establish the market offer from potential environmental enforcement service providers through the issue of a Prior Indication Notice (PIN). The final list of environmental offences to be included in the contract will be subject to the responses received.
- 3.10 The contract term is proposed as 3 + 3 years. This is based on securing a contract term that will provide the right balance between managing the risks to the Council (for example the market offer may change during contract period) and providing a contract term that provides reasonable certainty to a provider to enable them to invest, set-up and run the service in the Chichester district and have a viable business. In any case the contract is intended to have clauses that provide the usual protections to the Council should the contract performance not be satisfactory.

4. Outcomes to be Achieved

- 4.1 Following a tender exercise, to provide an effective extension of the Council's environmental enforcement resource thereby seeking to maintain and improve the environment in line with our statutory responsibilities.
- 4.2 This work supports the Corporate Plan priority that 'waste is reduced, recycled, reused or disposed of responsibly' and the Council's aim to maintain a balanced revenue position.

5. Proposal

- 5.1 It is proposed to invite tenders for the provision of environmental enforcement services as a concession contract and to increase FPN rates for littering and PSPO Dog Control offences to £150 reduced to £100 where payment is made within 14 days and to publish a list of environmental offences and related FPN rates (see Appendix). The preferred contractor will be reported back to Environment Panel and Cabinet before appointment. The intention is for a 3 + 3 year contract term.

6. Alternatives Considered

- 6.1 An alternative would be for the Council not to invite tenders for the provision of environmental enforcement services. This is likely to lead to very significantly lower levels of litter and dog fouling enforcement and might predicate increased levels of littering and dog fouling in the district.
- 6.2 A further alternative would be to seek to bring the service in-house. However, due to economy of scale, such a service provision model would be high cost and carry with it financial and administrative risk and so this model of provision is not recommended.

7. Resource and Legal Implications

- 7.1 The tender process can be carried out within existing officer and legal resources. Officers are taking advice from Hampshire County Council Procurement Services (HCC) for the design of the tender documents and tender exercise. This is within the existing arrangement with HCC.
- 7.2 The intention is that the contract will deal with all legal aspects of issuing notices and prosecutions related to any offences. This offers a lower burden on the Council's Legal Services team than was the case with the now terminated EHDC arrangement.

8. Consultation

- 8.1 No public consultation is proposed.

9. Community Impact and Corporate Risks

- 9.1 To not provide adequate litter enforcement is a reputational and financial risk to the Council. Enforcement is key to tackling environmental offences and to not deliver effective enforcement is to risk higher rates of environmental crime and an accompanying negative narrative in the community and press. When the original

Agreement was originally entered into there was a substantial national and local evidence base to support the rationale for the service.

- 9.2 Informal discussions with Councils who already have such commercial concession contracts has provided some insight into likely risks associated with such an approach: The start-up year can be challenging for the provider to recruit, train and maintain a sufficient staffing base to run the service. In the first-year staff turnover can be high and formal complaints about the service from the public can be significant until the contract's staffing base stabilises and the enforcement officers mature into their role.
- 9.3 Increasing FPN rates may be seen as insensitive to the pressures on household finances in the current cost of living crisis. Nevertheless, littering and fly tipping is avoidable, the Council has an adopted policy position of 'zero-tolerance' to littering and dog fouling offences. Increasing the FPN rates will assist in attracting a provider and securing a sustainable environmental enforcement service over the intended contract term. Removing litter from the district is done at considerable cost to Council tax payers and the proposed service is designed to send a strong 'against litter' message with any income surplus used to offset the cost of clearing up litter and fly-tips.

10. Other Implications

	Yes	No
Crime and Disorder Effective litter, dog control and other environmental enforcement and enforcement presence help to keep Chichester District a low litter environment, where dogs are well managed by their owners and environmental offences are known to risk formal action by the authority.	✓	
Climate Change and Biodiversity Littering has an impact on ecosystems through the physical nature of litter harming animals (by ingestion and entrapment) and the ecotoxicity of litter and its breakdown products/chemicals some of which are becoming ever more ubiquitous in the wider environment.	✓	
Human Rights and Equality Impact		✓
Safeguarding and Early Help		✓
General Data Protection Regulations (GDPR)		✓
Health and Wellbeing		✓
Other		✓

11. Appendices

11.1 Appendix

12. Background papers.

12.1 None.

Appendix: Proposed Fixed Penalty Notices, Civil Penalty Notice Rates and offence definitions:

Table 1:

Offence (‘new’ offences for the Council publishing FPN rates are indicated by ^N)	Legislation	FPN proposed (current FPN)	Discounted FPN¹ for payment within 14 days (current FPN)
Depositing Litter	EPA ¹ Section 88	£150 (£100)	£100 (£75)
Graffiti & Flyposting ^N	ASB ² 2003 Section 43	£150	£135
Commercial waste receptacles ^N	EPA Section 47	£110	£100
Duty of care (waste)	EPA Section 34	£400 Maximum ⁵	£200
Deposit of waste	EPA Section 33	£400 Maximum ⁵	£200
Nuisance Parking ^N	CNEA ⁴ Section 6	£100	£90
PSPO Dog Control non-compliance	ASB ⁵ 2014 Section 68	£150 (£100)	£100 (£75)
A-Boards/tables and chairs etc	Highways Act 1980 Section 115E	£150	£100
The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 ^N	EPA Section 88A	£150	£100 (CPN)

¹ Environmental Protection Act 1990.

² Anti-social Behaviour Act 2003.

³ Clean Neighbourhoods and Environment Act 2005.

⁴ Anti-social Behaviour Crime and Policing Act 2014.

⁵ Subject to officer’s assessment using the Environmental Offences Definitive Guideline.

¹ Except Littering From Vehicles etc which is a Civil offence.

Table 2:

Offence	Description of offence
Depositing Litter	To throw down, drop or deposit litter.
Graffiti & Flyposting	The display of advertising material on buildings and street furniture without the owners consent.
Commercial waste receptacles	Not storing waste in receptacles such that the waste may cause a nuisance or be detrimental to public health.
Duty of care (waste)	Originators of controlled waste must take all reasonable steps to prevent the waste becoming illegally deposited.
Deposit of waste	Depositing controlled waste on land without a permit (fly-tipping).
Nuisance Parking	Vehicles for sale on the highway and/or vehicle repairs on the highway.
PSPO Dog Control non-compliance	Three offences defined in the Council's Public Space Protection Order Dog Control, not picking up after your dog (dog fouling, dog exclusion areas and failure to put a dog on a lead when instructed to do so by an authorised officer.
The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018	To throw down, drop or deposit litter from a vehicle.

Environment Panel Work Plan – 12 April 2024

Environment Panel Workplan			
Date of Meeting	Subject	Lead Officer	Decision/Update
22 April 2024	Litter and Fly tip enforcement contract	Simon Ballard	Cabinet - May
Reports Coming Forward			
Oct or Nov 24	CCAP Consultation Results	Tom Day	Cabinet
	Low Carbon Chichester Fund Board Meeting	Tom Day	Cabinet
	Biodiversity Strategy programme	Tom Day	Cabinet
	Post Project Evaluation - Textiles, Small Electricals, and Coffee Pods	Amie Huggett	
	BNG Credit, option 3	Tom Day	Cabinet
	Chalk Streams Resilience Project	Tom Day	Annual monitoring Report
01 May 2025	New CEAP approved		Cabinet - Jul 25

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