

## **APPENDIX 5 - TERMS OF REFERENCE**

### **Call-in of the Cabinet decision: E3088**

#### **Introduction**

The Cabinet, on the 5<sup>th</sup> September 2018 resolved as set out below:

- 2.1 That the Group Manager for Neighbourhood Environmental Services, in consultation with the Cabinet member for Development and Neighbourhoods to enter in to a 12 month pilot scheme to increase the enforcement of environmental crime throughout the district with the following provision:
- a) the contract is at zero cost to the council
  - b) the contract is flexible to include additional enforcement activity as deemed appropriate
  - c) the providers take a proportionate approach in accordance with the legislation
  - d) that education and awareness raising of the consequences of environmental crime are prioritised
  - e) that if successful, proposals for a more permanent arrangement are developed towards the end of the trial.
- 2.2 This decision was based on the rationale that Fixed Penalty Notices are a valuable enforcement tool for dealing with the unauthorised deposit of litter, dog fouling fly-tipping and specific Duty of Care offences. They help to further the Council's commitment to take enforcement action against those who cause litter. By entering into a contract with a third party provider the Council can significantly increase its enforcement activity in relation to environmental crime as requested by residents, and help to keep the District cleaner and reduce pollution. Cleaner greener healthier communities form part of the Councils key priorities.

On the 11<sup>th</sup> September 2018 a call-in notice was received, signed by 10 Councillors, objecting to this decision.

This decision relates to the proposed pilot scheme to increase enforcement activity for environmental crime. Taken by the Cabinet, for the following reasons:

1. The Cabinet decision report did not demonstrate how the environmental enforcement pilot scheme can be delivered at zero cost to the Council.
2. The proposed "informal procurement process" is opaque and not in line with usual Council procurement procedures.
3. Contract management arrangements were not set out in the Cabinet decision report.
4. No operational details were included in the Cabinet decision report.
5. There is probable equalities impact, which has not been considered, as increased enforcement action is likely to disproportionately affect certain groups. The decision report does not state whether an equalities impact assessment has been carried out.
6. There is a risk of reputational damage to the Council.

7. The proposed approach is not consistent with the Council's "Public Protection and Health Improvement Service Enforcement Policy".
8. The Cabinet decision report does not demonstrate how the pilot scheme will improve cleanliness standards.
9. No consultation has been carried out with Councillors, stakeholders or residents. This is not in line with the Local Code of Corporate Governance.

## Relevant PDS Panel

The 'call-in' request has been referred to Bath & North East Somerset Council's Communities Transport & Environment Policy Development & Scrutiny Panel to review the decision.

## Call-in Meeting

At the Panel meeting on 27<sup>th</sup> September 2018 the Panel will investigate and determine the matter. They will assess in detail the reasons for the Cabinet decision and consider the objections stated in the call-in notice via a range of information from Councillors, Officers and members of the public (further details below).

## Objective

The objective of the Call-in review is to determine whether or not the resolution made by the Cabinet Members should:-

- Be referred back to the Cabinet for reconsideration [**'Uphold' the call-in**]
- Proceed as agreed by the Cabinet [**'Dismiss' the call-in**], or
- Be referred to Full Council to undertake the role of the Panel *[the ultimate decision would still remain with the Cabinet]*.

## Method

To achieve its objective, the Panel will investigate the original decision and the objections stated in the call-in notice. The Panel will hear statements from members of the public who have registered to speak about both the substance and processes behind the decision. Public statements will be limited to 3 minutes per speaker or any variation proposed by the Chair. It will also require attendance and/or written submissions from:-

- Representative Councillor(s) : Cllr Richard Samuel
- Lead Cabinet Member – Cllr Bob Goodman (Cabinet Member for Development & Neighbourhoods) and key service officers

## Outputs

The Panel's view and supporting findings will be made publicly and will include:

- Minutes & papers from public Panel call-in meetings.
- A summary note will be provided, setting out the result of the call-in meeting

## Constraints

**The Panel will only address questions from the validated point within the call-in notice.**

- **Timescales.** The Panel must hold its initial meeting within 14 working days of the call-in being verified to consider the call-in request. The Panel has a total of 21 working days to reach its decision.
  - Initial Public Meeting must be held by 1<sup>st</sup> October 2018 [14 working days from receipt of validated call-in request]
  - If meeting adjourned, second public meeting must be held by the 10<sup>th</sup> October [21 working days from receipt of validated call-in request]
  - If referred directly to the Cabinet, a response must be received by the 12<sup>th</sup> September [10 working days from date of 1<sup>st</sup> meeting]
  - If adjourned and then referred to the Cabinet, a response must be received by 25<sup>th</sup> September [10 working days from date of 2<sup>nd</sup> meeting]
- **Resources.** The call-in process must be managed within the budget and resources available to the Panel.
- **Council Constitution.** Part 4E, Rule 13 requires that “*Where an Overview and Scrutiny Panel makes a recommendation that would involve the Council incurring additional expenditure (or reducing income) the Panel has a responsibility to consider and / or advise on how the Council should fund that item from within its existing resources*”. Section 3.1 of the cover report (formal agenda papers) provides further explanation.