

A G E N D A

COMMUNITIES CABINET ADVISORY BOARD

Wednesday 3 October 2018 at 6.30 pm
Committee Room A, Town Hall, Royal Tunbridge Wells, TN1 1RS

Members: Councillor March (Chairman), Councillors Weatherly (Vice-Chairman), Dr Basu, Elliott, Ellis, Hill, Huggett, Nuttall, Ms Palmer, Scholes and Thomson

Quorum: 3 Members

- 1 Apologies**
To receive any apologies for absence.
- 2 Declarations of Interests**
To receive any declarations of interest by members of the Council in items on the agenda. For any advice on declarations of interest, please contact the Monitoring Officer before the meeting.
- 3 Notification of Visiting Members Wishing to Speak**
To note any members of the Council wishing to speak, of which due notice has been given in accordance with Council Meeting Procedure Rule 18, and which items they wish to speak on.
- 4 Minutes of the meeting dated 22 August 2018** (Pages 5 - 10)
To approve the minutes of a previous meeting as a correct record. The only issue relating to the minutes that can be discussed is their accuracy.
- 5 Work Programme as at 25 September 2018** (Pages 11 - 12)
- 6 Civil Penalty as an Alternative to Prosecution** (Pages 13 - 24)
- 7 CCTV Tender** (Pages 25 - 30)

8 Urgent Business

To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.

9 Date of the Next Meeting

To note that the date of the next scheduled meeting is Wednesday 14 November 2018 at 6.30pm in Committee Room A, Town Hall, Tunbridge Wells.

EXEMPT ITEM

It is proposed that, pursuant to section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Part I, Schedule 12A of the Act, by virtue of the particular paragraph(s) shown on the agenda and on the attached report(s).

Exempt appendix to CCTV Tender report (item7)

Exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended): Information relating to the financial or business affairs of any particular person including the authority holding that information.

Nick Peeters
Democratic Services Officer
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Options that the Cabinet Advisory Board Can Consider

The Cabinet Advisory Board is asked to consider each report and in each case come to a consensus and advise the Cabinet which one of the three options identified below it supports:

- 1) The Cabinet Advisory Board supports the recommendation(s) in the report.
or
- 2) The Cabinet Advisory Board supports the recommendation(s) subject to the issues it has identified being taken into account by the Cabinet (any issues identified should be stated and recorded).
or
- 3) The Cabinet Advisory Board does not support the recommendation(s) on at least one of the following grounds
 - 3.1 Inadequate consultation with stakeholders; and/or
 - 3.2 Inadequate evidence on which to base the decision; and/or
 - 3.3 Insufficient consideration of legal and financial information; and/or
 - 3.4 Another reason, as decided by the meeting of the Cabinet Advisory Board.

In each case the final Cabinet report will be amended to outline the option selected by the Cabinet Advisory Board and explain why this option was selected.

All visitors wishing to attend a public meeting at the Town Hall between the hours of **9.00am and 5.00pm** should report to reception via the side entrance in Monson Way. **After 5pm**, access will be via the front door on the corner of Crescent Road and Mount Pleasant Road, except for disabled access which will continue by use of an 'out of hours' button at the entrance in Monson Way

Notes on Procedure

- (1) A list of background papers appears at the end of each report, where appropriate, pursuant to the Local Government Act 1972, section 100D(i).
- (2) Items marked * will be the subject of recommendations by Cabinet to full Council; in the case of other items, Cabinet may make the decision, subject to call-in (Overview and Scrutiny Procedure Rule 12).
- (3) Members seeking factual information about agenda items are requested to contact the appropriate Service Manager prior to the meeting.
- (4) Members of the public and other stakeholders are required to register with the Democratic Services Officer if they wish to speak on an agenda item at a meeting. Places are limited to a maximum of four speakers per item. The deadline for registering to speak is 4.00 pm the last working day before the meeting. Each speaker will be given a maximum of 3 minutes to address the Committee.
- (5) All meetings are open to the public except where confidential or exempt information is being discussed. The agenda will identify whether any meeting or part of a meeting is not open to the public. Meeting rooms have a maximum public capacity as follows:
Council Chamber: 100, Committee Room A: 20, Committee Room B: 10.
- (6) Please note that the public proceedings of this meeting will be recorded and made available for playback on the Tunbridge Wells Borough Council website. Any other third party may also record or film meetings, unless exempt or confidential information is being considered, but are requested as a courtesy to others to give notice of this to the Democratic Services Officer before the meeting. The Council is not liable for any third party recordings.

Further details are available on the website (www.tunbridgewells.gov.uk) or from Democratic Services.

If you require this information in another format, please contact us, call 01892 526121 or email committee@tunbridgewells.gov.uk

Accessibility into and within the Town Hall – There is a wheelchair accessible lift by the main staircase, giving access to the first floor where the committee rooms are situated. There are a few steps leading to the Council Chamber itself but there is a platform chairlift in the foyer.

Hearing Loop System – The Council Chamber and Committee Rooms A and B have been equipped with hearing induction loop systems. The Council Chamber also has a fully equipped audio-visual system.

COMMUNITIES CABINET ADVISORY BOARD

Wednesday, 22 August 2018

Present: Councillor Jane March (Chairman)

Councillors Weatherly (Vice-Chairman), Dr Basu, Elliott, Ellis, Hill, Huggett, Nuttall, Scholes and Thomson

Officers in Attendance: David Candlin (Head of Economic Development and Property), Lee Colyer (Director of Finance, Policy and Development (Section 151 Officer)), Gary Stevenson (Head of Housing, Health and Environment), Paul Taylor (Director of Change and Communities) and Mark O'Callaghan (Democratic Services Officer)

Other Members in Attendance: Councillors Chapelard, Hamilton, Moore and Podbury

APOLOGIES

COM19/18 Apologies for absence were received from Councillor Ms Palmer.

The Chairman noted that Karen Pengelly, Town Centre Manager of Royal Tunbridge Wells Together, had been expected but was unable to attend due to illness.

DECLARATIONS OF INTERESTS

COM20/18 Councillor Ellis advised that, whilst not a pecuniary interest, he was a representative of the Federation of Small Businesses whose members may be affected by the proposals at COM24/18. The Chairman confirmed this did not exclude him from the meeting.

There were no disclosable pecuniary interests or significant other interests declared at the meeting.

NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK

COM21/18 Councillor Moore was registered to speak at COM24/18.

MINUTES OF THE MEETING DATED 11 JULY 2018

COM22/18 Members reviewed the minutes. No amendments were proposed.

RESOLVED – That the minutes of the meeting dated 11 July 2018 be approved as a correct record.

WORK PROGRAMME AS AT 14 AUGUST 2018

COM23/18 Members reviewed the work programme. No queries were raised.

RESOLVED – That the Work Programme as at 14 August 2018 be noted.

ROYAL TUNBRIDGE WELLS TOWN CENTRE BUSINESS IMPROVEMENT DISTRICT

COM24/18 David Candlin, Head of Economic Development and Property, introduced the report which included the following comments:

- Royal Tunbridge Wells Together (RTWT) had been formed in 2016 as a business led organisation supported by the Council to promote commercial activity in the town.

- Appendix A to the report set out some of the achievements of RTWT.
- It had always been the intention to work towards creating a Business Improvement District (BID) in order to build a long-term sustainable organisation.
- There were over 300 successful BIDs nationwide and most recently in Maidstone.
- RTWT would complete its business plan for the BID in September 2018 and a ballot would be held before the end of the year. The ballot would have to pass by both a majority of individual votes and a majority by the rateable value of those that vote.
- The Council had a key role in implementing the ballot, collecting the levy and supporting the organisation as a levy-paying member.

Councillor Moore, member for Park ward and Portfolio Holder for Economic Development and Communication, had registered to speak and encouraged members to support the recommendations. There were several threats and opportunities for town centres and the rise of online retailing could be countered by more experiential opportunities including leisure and culture in the town. Tunbridge Wells was competing with Maidstone and Canterbury which both had BIDs. The objectives of the BID would be business led and enhance the trading environment for all businesses. Important to note that the BID's activities were in addition to the core services provided by the Council. BIDs were becoming increasingly popular in the UK and were already widely used internationally.

The discussion included consideration of the following additional matters:

- A recent article in the Telegraph had raised concerns about the loss of town centre premises to warehouse type operations for online retailers. Whilst employment was welcome traffic generated by such businesses would be detrimental.
- The nature of retail premises was likely to change but the challenge for the BID would be in making the town centre a desirable place for these businesses to operate. Larger retail premises would be liable for Business Rates and the BID Levy.
- The Council's own liability for the BID Levy was set out in the Exempt Appendix. The Council had agreed to confidentiality as the BID was a commercial operation which would set out its own business plan.
- An online business' activities to reduce its Corporation Tax burdens were not replicable on a local level and Business Rates were unavoidable. The Council was successful in collecting 99 per cent of due Business Rates.
- The BID was expected to commence in early 2019. Whilst there were ongoing discussions on Business Rates, no significant changes were expected in the immediate future. No impacts on the Business Rate retention pilot were anticipated.
- The BID in Canterbury had been proven to be very successful but it was for a much smaller area than in Tunbridge Wells which lead to concerns that efforts may be spread too thinly or unequally.
- The BID area had been determined by RTWT. Tunbridge Wells was by nature an elongated town and therefore familiar with the issues associated with being spread out. Whilst it was not expected that all areas would receive an equal share of funding, the allocation would be determined by the BID and the returns would benefit the town as a whole.

- RTWT had previously talked about ensuring events and activities were spread out in different areas of the town.
- A number of small businesses were already struggling with high Business Rates and there needed to be flexibility to offer relief.
- The BID would be free to consider any proposals to offer its own Business Rates reimbursement scheme to its members. There would be a threshold below which small business would not be liable to pay the BID Levy.

RESOLVED – That the recommendations set out in the report be supported.

HOUSEHOLD RECYCLING, WASTE COLLECTION AND STREET CLEANSING CONTRACT PROCUREMENT

- COM25/18 Gary Stevenson, Head of Housing, Health and Environment, introduced the report which included the following comments:
- The process of procuring the new contract started with a report by the Overview and Scrutiny Committee and Cabinet in November 2017 had agreed the outline for a new service.
 - The new service included doorstep glass collection, weekly food waste collection and an opt-in chargeable garden waste collection.
 - The report referred to the proposed services as the Nominal Optimum Method (NOM) which meant a balance of services which was the most cost effective possible.
 - Tunbridge Wells was responsible for collection and Kent County Council (KCC) paid for disposal. Both were working together to recycle more and there was an agreement with KCC to share the savings from reduced waste disposal.
 - A comprehensive procurement process had been undertaken, cost and quality had been weighted 50/50 in recognition of the contract being a high-profile front line service.
 - The overall tender scoring was set out in the report which detailed figures included in Exempt Appendix A. Five tenders had been received with four being progressed to stage 2.
 - Bidder A had scored highest for quality and second for cost.
 - The contract would be joint with Tonbridge and Malling Borough Council, this was popular with contractors as it allowed sharing of services, consistency and a single management structure. These efficiencies reduced costs and were accounted for in the tenders.
 - The initial cost for the opt-in garden waste services was £52 and included the cost of the new bin. Colours of bins was to be determined.
 - A majority of Councils now charged for garden waste collection and the average cost in East Sussex was in the mid-£50 range.
 - A summary of the client costs was set out in the report with more details in Exempt Appendix A.
 - The changes expected as part of such a large project would require significant public communication and it was proposed to set aside a £100k budget for this purpose.
 - The Civic Amenity Vehicle was included as a discretionary service. The precise nature of the service may need to be reconfigured to avoid it being used for trade or garden waste. This would be subject of ongoing discussion with Parish Councils and would continue in its current form until the replacement was agreed.

- The contract was expected to commence on 1 March 2019 with the new operator taking over collections from 30 March 2019 and all routes switched to the new service no later than 30 November 2019.
- The proposals would be a significant change to the service and some disruption was inevitable. There would be a reconfiguring of some collection routes and bin collection days were likely to change to generate efficiencies and savings. Officers were working hard to minimise disruption and this would be supported by a strong communications campaign.

The discussion included consideration of the following additional matters:

- The number of glass deposit banks would be reduced as demand was expected to fall. However, some would remain as not all residents would have doorstep collections, particularly in town centres where space for bins was limited.
- The garden waste charge had significantly increased from original estimates of £30.
- There was concern that the charge was too high and would lead to increased fly-tipping or garden bonfires.
- A lower charge may increase take-up.
- Research had been undertaken and national statistics reviewed and there was no apparent evidence of correlation between fly-tipping and charging for garden waste collections. National statistics showed a continual decline in fly-tipping of green waste between 2007-2017 despite the widespread introduction of charging.
- The cost of £52 was per bin, households who opted for multiple bins would pay multiple charges.
- Increased garden bonfires was a concern, particularly in areas such as St John's where air pollution was already high.
- Given the significance of the service and size of the contract, the decision should go to Full Council.
- Cabinet had authority to make the decision which was within the framework and budget set by Full Council.
- Residents concerned about the cost could share bins.
- The service was optional and those in small houses or apartments without gardens would have no need to pay.
- Green waste that was collected by the Council would go to North Farm site where it was transferred to KCC then to Blaise Farm for composting and used throughout Kent and surrounds. Tax payers got the indirect financial benefit through KCC not having to pay a reduced disposal fee that reflected the income generated from sales by the treatment company.
- The initial charge of £52 was subject to review via the normal annual Fees and Charges setting process by Cabinet in November. The cost of the contract was index linked so could rise.
- The garden waste collection service was priced for the year acknowledging that there would be more in the summer and less in the winter.

A vote on the recommendations was taken. Parts 1, 2 and 4 of the recommendations set out in the report were supported unanimously. Part 3 relating to the charge for the opt-in garden waste services was supported by 6 votes for, 2 votes against and 2 abstentions.

RESOLVED – That the recommendations set out in the report be supported.

URGENT BUSINESS

COM26/18 There was no urgent business.

DATE OF THE NEXT MEETING AND SCHEDULED ITEMS

COM27/18 It was noted that the date of the next scheduled meeting was Wednesday 3 October 2018 at 6.30pm in Committee Room A, Town Hall, Tunbridge Wells.

The following items were scheduled on the Forward Plan (which was subject to change) to be discussed:

- Cultural Hub – Update and Fundraising
- CCTV Tender
- Civil Penalties as an Alternative to Prosecution

NOTES:

The meeting concluded at 7.25 pm.

An audio recording of this meeting is available on the Tunbridge Wells Borough Council website.

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**COMMUNITIES CABINET ADVISORY BOARD
WORK PROGRAMME**

October 2018 - May 2019

This work programme sets out the decisions that will be brought to the Cabinet Advisory Board for consultation before the decision is made at the relevant Cabinet meeting. The work programme is linked to the Forward Plan which is updated on a continuous basis.

Further details regarding decisions to be made, or decisions that have been made, including information on consultations and background documents, can be obtained via the Council's website at <http://democracy.tunbridgewells.gov.uk/mgDelegatedDecisions.aspx?bcr=1>

If you have any questions regarding the Council's decision making process please contact Democratic Services at committee@tunbridgewells.gov.uk

Advisory Board	Date of Decision by Cabinet	Report Title, Summary and Ward	Consultation Details	Background papers/materials	Relevant Officer	Portfolio Holder
Communities and Wellbeing Portfolio – Councillor Weatherly						
13/02/19	07/03/19	*Community Safety Partnership Plan 2019/20 To recommend to Full Council the annual Community Safety Partnership Plan for approval. The Plan presents data on crime and anti-social behaviour within Tunbridge Wells Borough and provides an update on solutions provided to ensure the safety of residents. <i>All Wards</i>	The relevant Cabinet Advisory Board will be consulted.		Terry Hughes, Community Safety Manager	Portfolio Holder for Communities and Wellbeing
Sustainability Portfolio – Councillor Dr Basu						
17/01/19	07/02/19	Air Quality Action Plan To approve, following consultation, a revised Air Quality Action Plan 2018 - 2023, in conjunction with some minor changes to the air quality management area order. <i>Broadwater; Culverden; Pantiles & St Mark's; Southborough & High Brooms; Southborough North; St John's</i>	Public consultation Aug-Sep 2018. The relevant Cabinet Advisory Board will be consulted.		Karin Grey, Sustainability Manager	Portfolio Holder for Sustainability

Communities Cabinet Advisory Board

03/10/2018

Is the final decision on the recommendations in this report to be made at this meeting?

No

Civil penalty as an alternative to prosecution

Final Decision-Maker	Cabinet
Portfolio Holder(s)	Lynne Weatherly – Portfolio Holder for Communities and Wellbeing
Lead Director	Paul Taylor – Director of Change and Communities
Head of Service	Gary Stevenson – Head of Housing, Health and Environment
Lead Officer/Author	Claire Pickering – Environmental Health Officer
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. To adopt the use of civil penalties under the Housing and Planning Act 2016
2. To agree the delegation of all enforcement powers under the Act (and subsequent regulations)

Explain how this report relates to the Corporate Priorities in the Five Year Plan:

- The introduction of civil penalties will help the Council to address poor living conditions in the private rented sector. This relates to a well borough by improving social and health inequalities.

Timetable

Meeting	Date
Management Board	12/09/2018
Discussion with Portfolio Holder	TBC
Communities Cabinet Advisory Board	03/10/2018
Cabinet	25/10/2018

Tunbridge Wells Committee Report, version: June 2018

Civil penalty as an alternative to prosecution

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report sets out how the Council will implement new enforcement powers contained in the Housing and Planning Act (2016), which allows financial penalties to be imposed as an alternative to prosecution for certain housing offences.
- 1.2 The introduction of civil penalties will provide an additional enforcement tool to improve accommodation in the private rented sector. It will add to the options available for effective enforcement against criminal landlords. Income received from civil penalties will be retained by the Council.

2. INTRODUCTION AND BACKGROUND

- 2.1 Local Authorities have various statutory powers under the Housing Act 2004. There is a range of action that can be taken when an offence is committed. This includes the service of notices, cautions and prosecutions.
- 2.2 The Housing and Planning Act 2016 amends the Housing Act 2004 to allow financial penalties, up to a maximum of £30,000, to be imposed as an alternative to prosecution for certain housing offences (as detailed in Appendix A).
- 2.3 The benefit of implementing these new powers is that income received from a civil penalty can be retained by the Council provided it is used to further the local authority's statutory functions in relation to enforcement activities covering the private rented sector. It is uncertain how often these powers will be used but they are not expected to provide a regular source of income. Private Sector Housing has carried out two prosecutions in the last ten years.
- 2.4 Officers will assess each case carefully to identify and apply the appropriate sanction dependant on the severity of the offence and circumstances. These will include a civil penalty or undertaking other enforcement interventions, such as prosecution or offering a simple caution. It is important to note if a civil penalty is imposed a prosecution cannot be sought for the same offence.
- 2.5 The use of civil penalties will not reduce the amount of investigation work for officers in the Private Sector Housing team. The guidance for local housing authorities states the same criminal standard of proof is required for a civil penalty as for a criminal prosecution. This means that before taking formal action to issue a penalty, the local housing authority must be satisfied that if the case were to be prosecuted in the Magistrates Court there would be a 'realistic prospect of conviction'. In order to achieve a conviction the local authority would need to be able to demonstrate 'beyond reasonable doubt' that an offence was committed. Similarly, where a civil penalty is imposed and an appeal is lodged at the First Tier Property Tribunal (FTPT), the local authority

will need to demonstrate 'beyond reasonable doubt' an offence has been committed.

- 2.6 The Council's policy will be that in the most serious cases and when proportionate to do so, Private Sector Housing will seek to issue the maximum penalty. It is intended that, in treating each case on its merits, this will help achieve the maximum deterrent for criminal landlord behaviour. To really drive sustainable landlord behaviour change, the fine needs to be at a level that is appropriate to the offence committed.
- 2.7 The Ministry of Housing, Communities & Local Government have published the following document: Civil Penalties under the Housing and Planning Act 2016: Guidance for Local Authorities. This is statutory guidance to which local authorities must have regard. It recommends certain factors a local authority should take into account when deciding on the level of civil financial penalty and further recommends that local authorities develop and document their own policy on determining the appropriate level of financial penalty in a particular case.
- 2.8 A civil penalty matrix has been created for officers to use as a guideline to determine the most appropriate penalty which can be imposed up to a maximum of £30,000 (see Appendix B). The Council will determine the offence category using a number of factors including culpability of the offender, risk of harm and actual harm. This matrix will also be used to offer transparency, aid consistency in the enforcement process and also assist in the defending of appeals in the FTPT.

3. AVAILABLE OPTIONS

- 3.1 **Option1** - Adopt the use of civil penalties under the Housing and Planning Act 2016. This will provide an additional enforcement tool to be used in appropriate cases. Any income received from civil penalties will be retained by the Council.
- 3.2 **Option 2** – Do nothing. This would provide no alternative to prosecution and no retention of any fines imposed by the Court.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1 is the preferred option. This option will provide Private Sector Housing with the power to issue civil penalties for offences where landlords fail to repair, manage or improve their properties when required to do so by the Council.

5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 Other Kent authorities have been consulted via the Private Sector Housing Technical Group and Private Sector Managers Group. The civil penalty matrix (Appendix B) was developed after discussion with Newham and with reference

to Bristol City Council's policy on deciding the financial penalty amount for civil penalties. Both of these authorities were early implementers of the use of civil penalties.

RECOMMENDATION FROM CABINET ADVISORY BOARD


- 5.2 The Communities Cabinet Advisory Board will be consulted on this decision on 03 October 2018.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The introduction of civil penalties would be publicised via the website, a press release, Local magazine and at landlord forums.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	The statutory authority for introducing the proposed civil remedies is set out in the body of the report and in Appendix A to the report. The relevant statutory guidance is referred to in the report. There are no consequences arising from the recommendation that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998.	Keith Trowell Senior Lawyer – Contentious and Deputy Monitoring Officer 7.9.18
Finance and other resources	Income received from civil penalties can be retained by the Council, provided it is used for statutory enforcement purposes in the private rented sector. It is uncertain how often these powers will be used but they are not expected to provide a regular source of income.	[Full Name] [Job Title] [Date signed]
Staffing establishment	No relevant considerations	Claire Pickering Environmental Health Officer 24.8.18
Risk management	No relevant considerations	Claire Pickering Environmental Health Officer

		24.8.18
Data Protection	No relevant considerations	Claire Pickering Environmental Health Officer 24.8.18
Environment and sustainability	No relevant considerations	Claire Pickering Environmental Health Officer 24.8.18
Community safety	No relevant considerations	Claire Pickering Environmental Health Officer 24.8.18
Health and Safety	No relevant considerations	Claire Pickering Environmental Health Officer 24.8.18
Health and wellbeing	<p>Housing is one of the wider determinants of health. The introduction of civil penalties will provide an additional enforcement tool to help improve poor conditions in the private rented sector.</p> 	Claire Pickering Environmental Health Officer 24.8.18
Equalities	The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no apparent equality impact on end users.	Claire Pickering Environmental Health Officer 24.8.18

8. REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Appendix A: Offences where civil penalties can be imposed as an alternative to prosecution
 - Appendix B: Civil Penalty Matrix
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9. BACKGROUND PAPERS

- Civil penalties under the Housing and Planning Act 2016 – Guidance for Local Housing Authorities:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf

Appendix A – Offences where civil penalties can be imposed as an alternative to prosecution

Local housing authorities can impose a civil penalty as an alternative to prosecution for the following offences under the Housing Act 2004 and the Housing and Planning Act 2016:

- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72 of the Housing Act 2004)
- Offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004)
- Offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004)
- Breach of a banning order (section 21 of the Housing and Planning Act 2016)

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Appendix B – Civil Penalty Matrix

Factors	Score = 1	Score = 5	Score = 10	Score = 15	Score = 20	Total
1 – deterrence & prevention (pick only one box to the right)	High confidence that a financial penalty will deter repeat offending.	Medium confidence that a financial penalty will deter repeat offending.	Low confidence that a financial penalty will deter repeat offending (e.g. no contact from offender).	Little confidence that a financial penalty will deter repeat offending.	Very little confidence that a financial penalty will deter repeat offending.	
2 - Removal of Financial Incentive (pick only one box to the right)	No significant assets. No or very low financial profit made by offender.	Little asset value. Little profit made by offender.	Small portfolio landlord (2 – 3 properties). Low asset value. Low profit made by offender.	Medium portfolio landlord (4 – 5 properties) or a small managing agent. Medium asset value. Medium profit made by offender.	Large portfolio landlord (over 5 properties) or a medium to large Managing Agent. Large asset value. Large profit made by offender.	
3 – Offence & History (pick only one box to the right)	Offence committed with little fault e.g. failings were minor and occurred as an isolated incident or efforts were made to address risk although they were inadequate. Single low level offence. No previous enforcement history.	Offence committed through act or omission which a person exercising reasonable care would not commit. Single offence. Minor previous enforcement.	Offender aware of risk but does not alter actions in light of risk. Offence has moderate severity or small frequent impacts. Recent second time offender. Previous enforcement.	Offender knew their actions were unlawful. Ongoing offence of moderate to large severity or a single instance of a very severe offence. Several previous offences. More than one instance of previous enforcement action.	Offender has intentionally breached or flagrantly disregarded the law. Continuing serious offence. Serial offender. Multiple enforcement over recent times.	
4 – Harm to Tenant (s) (weighting x 2) (pick only one box to the right)	Very little or no harm caused. No vulnerable occupants. Tenant provides no	Likely some low level health/harm risk(s) to occupant. No vulnerable occupants.	Likely moderate level health/harm risk(s) to occupant. Vulnerable occupants potentially exposed.	High level of health/harm risk(s) to occupant. Tenant(s) will be affected frequently	Obvious high level health/harm risk(s) and evidence that tenant(s) are badly and/or continually	Double score

Appendix B – Civil Penalty Matrix

	information on impact.	Tenant provides poor quality information on impact.	Tenant provides some information on impact but with no primary or secondary evidence.	or by occasional high impact occurrences. Vulnerable occupants more than likely exposed. Small HMO (3 -4) occupants, multiple occupants exposed. Tenant provides good information on impact with primary evidence (e.g.prescription drugs present, clear signs of poor health witnessed) but no secondary evidence.	affected. Multiple vulnerable occupants exposed. Large HMO (5+ occupants exposed. Tenant provides excellent information on impact with primary and secondary evidence provided (e.g. medical, social services reports).	
Final Total						Add total of above here

Score range	Fee
1 – 5	£250
6 - 10	£500
11 – 20	£750
21 – 30	£1000
31 – 40	£2500
41 – 50	£5000
51 – 60	£10,000
61 – 70	£15,000
71 – 80	£20,000
81 – 90	£25,000
91 - 100	£30,000

Scoring regime –

- Each row should be scored in order with only one option being chosen for each row.
- All rows must be scored.
- Note the score in the Total column.
- Factor 4 – harm to tenants has an additional weighting, which will double the selected score.
- In the final cell at the bottom of this column insert the final total.
- The score should then be compared to the sliding scale of enforcement fee to be levied.

Appendix B – Civil Penalty Matrix

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Communities Cabinet Advisory Board

03 October 2018

Is the final decision on the recommendations in this report to be made at this meeting?

No

CCTV Tender

Final Decision-Maker	Cabinet
Portfolio Holder(s)	Councillor Lynne Weatherly – Portfolio Holder for Communities and Wellbeing
Lead Director	Paul Taylor - Director of Change & Communities
Head of Service	Denise Haylett – Head of Facilities & Community Hubs
Lead Officer/Author	Denise Haylett – Head of Facilities & Community Hubs
Classification	Part Exempt Exempt Appendix A - Exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended): Information relating to the financial or business affairs of any particular person (including the authority holding that information).
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That the new CCTV monitoring contract be awarded to the preferred provider identified in Exempt Appendix A for a one year term from 1 February 2019 with the option of two annual extensions.

This report relates to the following Five Year Plan Key Objectives:

- A Prosperous Borough – by ensuring that we achieve best value on our contracts.

Timetable

Meeting	Date
Management Board	12 September 2018
Discussion with Portfolio Holder	17 September 2018
Communities Cabinet Advisory Board	3 October 2018
Cabinet	25 October 2018

CCTV Tender

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The purpose of the report is to seek approval to award a new CCTV monitoring contract for the supply and management of suitably qualified and trained personnel to monitor, manage and operate CCTV cameras in the CCTV Control Room in the Town Hall.
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2. INTRODUCTION AND BACKGROUND

Background

- 2.1 Tunbridge Wells Borough Council and Tonbridge & Malling Borough Council have a partnership arrangement to carry out Closed Circuit Television Monitoring. As part of the partnership arrangement the Council, through a private contract, manages the monitoring contract whilst TMBC manage the hardware and maintenance contract.
- 2.2 This contract expires on 31st January 2019, so TWBC is therefore looking to award a contract to a suitably experienced and qualified contractor to undertake the CCTV monitoring and operation. The current budget for the service is approximately £200K per annum.
- 2.3 It is important that the new contract prioritised quality. Therefore, the tender document allocated 55% of the marks to quality and 45% to price.
- 2.4 The term of the contract is 1 Year with option of two possible annual extensions.

New contract

- 2.5 A fully complaint OJEU (Official Journal of the European Union) process was undertaken to competitively tender this contract. Due to time constraints the procedure used was a single stage open tendering process.
- 2.6 There were 26 Expressions of Interest in the contract from which we received 5 on time submissions. 1 opted out of the process, and there were 20 no responses.
- 2.7 2 submissions qualified for interview following evaluation of a cost and quality assessment. These were Supplier B and Supplier D.
- 2.8 Supplier B scored highest on both cost and quality. However, their cost proposal carries an element of risk in that legislative uplifts are not factored into their cost. This means that any cost increase associated with (but not limited to) the living wage, pensions or national insurance will be passed onto TWBC.
- 2.9 This report asks that the preferred provider be awarded the new contract commencing 1 February 2019.

2.10 The term of the contract is 1 Year with option of two possible annual extensions.

Background for the preferred provider

2.11 The group was founded in 2002 as a manned security company. In 2013 the company acquired the asset of Remploy CCTV and successfully assigned 95% of Remploy client base to this provider.

2.12 The provider is the only security company in the country that has a dedicated subsidiary who sole service is the management and provision of control room CCTV monitoring staff.

2.13 The provider currently supplies monitoring staff to 27 local authorities across the UK.

3 AVAILABLE OPTIONS

3.1 Option 1 - Do nothing: this would lead to the Council having no monitoring officers in place to monitor and capture CCTV for the Borough and Tonbridge & Malling Borough Council;

3.2 Option 2 - Award a new contract to the Supplier B as they are the highest scoring tenderer; or

3.3 Option 3 - Award to Supplier D which offers cost stability and an equal level of quality.

4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 Option 3.2 above is the preferred option selected. This procurement process has enabled us to assess the current market place and obtain proposals from a wide range of interested parties.

5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 Consultation with the Portfolio-holder for Communities and Wellbeing, Cllr Lynne Weatherly has taken place on 17 September 2018.

RECOMMENDATION FROM CABINET ADVISORY BOARD

5.2 The Communities Cabinet Advisory Board will be consulted on this decision on 03 October 2018.

6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If approved by Cabinet on 25 October the Contract Award Notices will be issued after expiry of the call-in period.

7 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Legal including Human Rights Act	New terms and conditions will be required for contract	Lucinda MacKenzie-Ingle Contracts Team Leader
Finance and other resources	Saving against budget at present. Procurement procedures have been followed.	Lee Colyer Director of Finance, Policy and Development
Staffing establishment	There are no direct staffing issues.	Denise Haylett Head of Facilities & Community Hubs
Risk management	The cost proposal carries an element of risk in that legislative uplifts are not factored into their cost. This means that any cost increase associated with (but not limited to) the living wage, pensions or national insurance will be passed onto TWBC.	Denise Haylett Head of Facilities & Community Hubs
Environment and sustainability	No impact has been identified.	Denise Haylett Head of Facilities & Community Hubs
Community safety	Public CCTV systems can assist in the prevention and detection of crime and help residents and visitors stay safe while clubbing, shopping, and using public spaces.	Denise Haylett Head of Business Support
Health and Safety	This area is covered within the Contract.	Health and Safety
Health and wellbeing	No impact has been identified.	Health and Safety
Equalities	No impact has been identified.	Health and Safety

8 REPORT APPENDICES

The following documents are to be published with and form part of the report:

- Exempt Appendix A: Tender Evaluation Matrix
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9 BACKGROUND PAPERS

- None

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Exempt Appendix to CCTV Tender report (Item 7)

It is proposed that, pursuant to section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following item on the grounds that it involves the likely disclosure of exempt information as defined Schedule 12A of the Act, by virtue of the particular paragraph shown on the agenda and on the attached reports, namely: Paragraph 3 – *Information relating to the financial or business affairs of any particular person including the authority holding that information.*

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972 (as amended).

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