



Janet Finch-Saunders AM/AC

Assembly Member for Aberconwy
Shadow Cabinet Secretary for Local Government

Aelod Cynulliad dros Aberconwy
Ysgrifennydd yr Wrthblaid ar gyfer Llywodraeth Leol

To the Chairman and Councillors,
Special, Economy and Place Overview and Scrutiny Committee,
Conwy County Borough Council
By email

Office of Janet Finch-Saunders AM,
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2nd July 2018
Ref: TYH/JFS/HM

National Assembly for Wales,
Cardiff Bay,
CF99 1NA.
0300 200 7454

Re: Item 7/7a Environmental Enforcement

janet.finch-saunders@assembly.wales

Dear Councillors,

I am writing to you ahead of the meeting of the Special, Economy and Place Overview and Scrutiny Committee on 4th July, with particular reference to Item 7/7a regarding Environmental Enforcement contract extension.

At the outset, I wish to state my **opposition to the recommendation of the Council's report to the Committee that the current environmental enforcement contract with Kingdom Security Ltd should be extended for 1 year from 10th August 2018**. I wish also to state that, in noting my objections to this recommendation, I do not condone dog fouling, littering, or dogs being taken off lead in the relevant controlled areas.

I shall outline the reasons for my objection below:

- I am firmly of the mind that **a renewal of this Contract will not go down well with the local electorate, residents, hospitality and tourism business owners, or those who enjoy visiting the area**. Concerns over how enforcement is undertaken on behalf of the Council continue to present a challenge to our tourism and hospitality industries, on which the town of Llandudno – which appears to have been particularly targeted by officers, whether intentionally or not, so heavily relies.
 - **The number of FPNs issued in Conwy for 2016-17** – the last published data from the Welsh Government, **is the fourth highest of all local authorities in Wales**, behind only Denbighshire, Flintshire and Wrexham – the latter two of which have considerably higher populations. Further, considerably **more FPNs have been issued within Conwy for Dog Control offences** than anywhere else in Wales: **492 between 2015-17, of which 427 were upheld**. Just two other local authorities who also issued FPNs for such offences between 2015-17: **Blaenau Gwent 34 (33 upheld), and Vale**





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- **of Glamorgan 4 (none upheld).**
- This heavy-handedness has shown to be a real cause for concern: I have been contacted by visitors and tourists to the area, as well as businesses, who say they **will not return after a bad experience** with an Officer undertaking enforcement on behalf of Conwy County Borough Council.
- Additionally, over the past couple of years, I have had numerous constituents and visitors to the area come into my office in a **considerable state of distress, and too often reduced to tears, following their experience with an enforcement Officer undertaking work on behalf of the Council.** In such instances, where consent has been given by the individual, I have written directly to Mr Peter Brown, Head of Regulatory Services at Conwy Borough Council to highlight these concerns – therefore I know that **the Council is fully aware of these cases.**
- In terms of **challenging an FPN** issued, I remain concerned that **there is no formal process for doing so.**
 - In a number of cases I have dealt with, constituents have **felt obliged to pay the fine and then seek to appeal afterwards**, in order to avoid further punitive measures for not paying on time – yet the payment is deemed an ‘admittance’ of guilt.
 - In response to FOI 0444-17, C.C.B.C. confirmed figures in relation to appeals and FPNs issued, which showed that **two-thirds of those appealed were overturned, and only 1 of 14 taken to court was upheld:**
 - In making a complaint or appealing to Kingdom directly, there appears to be **no formal manner in which to do so – for example, no form to fill in, just an email address to contact, and the only method of escalation available to constituents is to take the matter to court** – a hugely time-consuming and potentially expensive process, which many people would rather avoid.¹
 - Through a Subject Access Request, residents have been able to obtain the **bodycam footage** relating to their incident by paying £10 (a fee no longer charged under GDPR), in the hope that it would prove their innocence, but have been disappointed to note that the **footage is only recorded of their interaction with an Officer(s) after it had been alleged that an offence was committed.** Therefore, there is no evidence to prove or disprove that an offence had taken place².
- The Council’s report advises that *“Kingdom will pay all Enforcement Officers a monthly Discretionary Salary Enhancement [on top of their salary, which meets minimum wage*

¹ <https://www.dailypost.co.uk/news/north-wales-news/council-launch-kingdom-probe-after-14211439> An example in Flint of a resident being forced to prepare for a court case with Kingdom over a littering FPN, despite CCTV footage proving her innocence is one which we would not wish to see repeated in Conwy County Borough. The case was dropped days before the resident was due in court – such a situation is not only unfairly stressful for the resident involved, but results in bad press for the Council as well as Kingdom – and I am sure that C.C.B.C. would wish to avoid any such circumstance in this regard.

² <https://www.dailypost.co.uk/news/north-wales-news/judge-clears-grandmother-of-littering-charge-after-13875908> In terms of such footage standing up in Court – another example in Prestatyn was overturned as a judge noted that *“the bodycam is there to provide evidence of an offence”*.



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requirements], *which will be based on the officer achieving the minimum quality standards.*” Achieving **minimum** quality standards should be a basic requirement of employment – not a means for a bonus. I would be most **concerned that the Council should chose to align itself with a company which does not even require its employees to meet such standards as a given.**

- The Council report stresses that this matter is not about generating income, yet a key concern noted within the report is that *“without enforcement there would be an immediate loss of net income to the council in for order of £100k from Fixed Penalty Notices issues”*, which begs to differ the point.
 - The proposed increases in FPN levels to £100 and £125 raises the *potential* value to the Council of **£200,000 – which I note has already been taken account of in the budget.** I am concerned that this amount **appears to have been taken as given** – as without set targets for FPNs issued (to which I would most vehemently object, it must be noted), **I fail to see how this amount might be guaranteed.**
 - *“The aim of the environmental enforcement work undertaken by Kingdom is deterrence”* – as noted clearly in the Council’s report. **Yet this figure appears to be based on deterrence not being effective enough to reduce the number of instances in which officers might issue an FPN.** Should this deterrence be effective and there is a shortfall in the amount raised through FPNs going forward, **how would the shortfall in funding be made up?** I would not wish for such funds to be relied on in future budgets.
- Given the potential for these above-noted funds to not be met, I am concerned that the Council is **placing less focus on obtaining financial recompense for instances of fly tipping.** The report notes that it costs the Council over £2m annually to clean our open spaces – and I do feel that perpetrators of this greater environmental offence should be held to account.
 - Instances of fly tipping have been on the increase since 2012-13 – from 935 in that year, to 1,351 in 2016-17³. However, **in 2016-17, only one prosecution was made, and only nine FPNs issued⁴.**
- Finally, a key reason given in the report for the extension of the contract is that it *“would enable time for the Council to consider and decide on any different environmental enforcement options available”*. It is noted also that *“There are currently therefore no environmental enforcement options ready to be implemented if the Kingdom contract is not extended.”*
 - **It is most concerning that the Council have left this matter so late to discuss.** In suggesting that there are no alternative options ready to be implemented by the time the current contract ends, this would seem to be something of a *fait accompli* – which is excessively disappointing.

³ <https://statswales.gov.wales/Catalogue/Environment-and-Countryside/Fly-tipping-in-Aberconwy-tipping-records-by-localauthority>

⁴ <https://statswales.gov.wales/Catalogue/Environment-and-Countryside/Fly-tipping/numberofflytippingenforcementactions-by-type>

Janet Finch-Saunders normally allow her staff to see it, so that they can consult with relevant authorities in order to help and advise you. We may wish to write to you from time to time to keep you informed on issues which you may find of interest. Please let us know if you do not wish to be contacted for this purpose.

Mi wnaiff Janet Finch-Saunders cadw unrhyw wybodaeth bersonol yn gwbl gyfrinachol, ac fel arfer mi fydd rhaid iddi rannu'r wybodaeth 'efo aelodau o staff i'w galluogi nhw i ddelio 'efo'r awdurdodau perthnasol er mwyn eich helpu a'ch cynorthwyo chi. Efallai mi fydd angen i rywun ysgrifennu atoch er mwyn darparu'r wybodaeth ddiweddaraf o bwys. Gadwch wybod i ni os nad oes diddordeb gennych mewn cael eich cysylltu at y diben hwn.



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- Committee Members will be aware that **this issue has been contentious locally for a long time**. It was just under a year ago that I held a very well-attended public meeting, at which many called for a review of the enforcement measures undertaken on behalf of Conwy County Borough Council.
- Prior to this, the matter has received considerable coverage in local media, and subsequently this has increased substantially – with almost-weekly coverage in the Daily Post, North Wales Weekly News and North Wales Pioneer.
- It is therefore, I feel, **unacceptable that alternative options have not yet been scoped out, as this matter has been clearly on the Council’s radar for long enough for more preparatory work to have been undertaken**.
- Other local authorities in North Wales have **terminated their contracts with Kingdom** – matters which have been promoted publically via the local media – and will be employing their own methods of environmental enforcement as a result. I believe that the Council should **look at examples of best practice** being undertaken in other local authorities, which may be brought into implementation in time for 10th August.

I am firmly of the opinion that the time has come – albeit later than I would have wished – for the Council to look at other options and methods for dealing with environmental enforcement. Indeed, in the Report of the Council for this Agenda Item, **the Cabinet Member himself has stated that “this is an opportunity for change...so that a better solution can be sought”**.

A clean and safe environment for everyone is of utmost importance, but the manner in which enforcement action is undertaken must ensure that residents and visitors alike feel secure and unintimidated on our high streets, beaches and public places. **Everyone should be able to enjoy a safe, clean and positive experience in and around Conwy County.**

Yours sincerely,

Janet Finch-Saunders AM/AC

