

PART A

Report to: Overview and Scrutiny
Date of meeting: 05 March 2015
Report of: Head of Community and Customer Services
Title: Report outlining fly tipping trends and services provision

1.0 SUMMARY

- 1.1 The object of this report is to provide an overview into the role of the environmental crime team, the functions that the environmental crime officers regulate and enforce and how compliance is achieved. The report focuses in detail on the response and regulation of fly tipping, the challenges and common issues faced and the performance in relation to numbers of fly tips and enforcement.
- 1.2 The differences between fly tips on private and public land are explored. Importantly, it is explained that the procedure for investigation is exactly the same regardless of the land ownership. The differences arise in relation to arranging clearance. All fly tips on public land are cleared by Veolia as part of the outsourced contract. Fly tips on private land are the responsibility of the land owner to clear; this presents challenges for officers especially where land has multiple owners such as service roads and alleys.
- 1.3 The report outlines the approach taken to the investigation of incidents, and case studies are used to illustrate how the principles of the enforcement policy are applied. In all cases the reason behind the offence is sought and solutions that are sustainable and prevent recurring fly tips are explored. In essence, officers are seeking to change behaviour of fly tippers. This may be by intervention with them personally, or by changing the environment to prevent it being attractive for fly tipping.
- 1.4 Data show that the number of fly tipping incidents within Watford have decreased each year between 2010 and now. Analysis of the data shows that performance in relation to fly tips and enforcement has improved from “not effective” in 11/12 to “very effective” in 13/14. This assessment is made using the National Indicator calculation monitored by the Environment Agency and is based on the ratio of amount of fly tipping relative to the number and type of enforcement action.
- 1.5 The report concludes that fly tipping is acknowledged as a serious environmental and social problem. However, officers are confident that the continued improvement in processes and performance are enabling the service to evolve to an increasingly proactive approach. The environmental crime team will continue to work in partnership with Veolia to ensure that reports of fly tipping are investigated and cleared, to proactively target hotspots, to encourage land owners to implement long term solutions and

continue to strive for “very effective” performance again in 14/15.

2.0 RECOMMENDATIONS

That the Committee note the report.

Contact Officer:

For further information on this report please contact:: Kerrie Barrett
Telephone extension: 8325
Email: kerrie.barrett@watford.gov.uk

Report approved by: Alan Gough, Head of Community and Customer Services

3.0 DETAILED PROPOSAL

Overarching aims, objectives and approach

- 3.1 Flytipping is dealt with by the Environmental Crime team who are based in the Environmental Health and Licensing Section of Community and Customer Services. A critical partner to the team is Veolia who are responsible for the street cleansing and waste collection. Working together with our local communities the team aims to achieve clean and safe streets, open spaces and gardens.
- 3.2 Team Structure
Watford Borough Council employs two full time Environmental Crime Officers and one full time Town Enforcement Officer within the Environmental Health and Licensing section. The team predominantly deal with the issues of fly tipping, litter and land accumulations as well as other environmental crimes in the borough.
- 3.3 Whilst this report focuses on fly tipping, it is of equal importance to highlight the other functions that the Environmental Crime officers regulate and enforce.
- Abandoned vehicles
 - Dog fouling
 - Litter
 - Land accumulations (Public and private)
 - Overgrown gardens
 - Trade waste compliance
 - Commercial bonfires
 - Scrap metal dealer and collector compliance
- 3.4 In general, the amount of time spent on fly tipping equates to approximately 40% of the Environmental Crime officer time, leaving the remaining 60% of officer time to regulate and enforce the other functions of environmental crime, whilst also undertaking proactive projects with other agencies.

3.5 Environmental Crime Teams vision and objectives

Environmental Health, Licensing and Community Safety team's vision:

We will improve the health, quality, safety and economic prosperity of our town through a high performing efficient team delivering outcome and customer focussed excellent services.

All of the section's work delivers against the Councils Key Corporate outcomes. Whilst it is acknowledged that as a team providing many statutory functions we are sometimes constrained by some of these requirements, we are committed to streamlining our processes, challenging our functions and being innovative in our delivery to maximise the potential for achievements of the Corporate outcomes and minimizing unnecessary burdens both on the team and our customers.

3.6 The objectives of the Environmental Crime Teams approach:

- Protect individuals, the community and environment from harm
- Change the behaviour of perpetrators
- Eliminate any financial gain or benefit from non compliance
- Protect those affected by non compliance
- Be responsive and consider what is appropriate in the particular circumstances
- Be proportionate to the nature of the offence and harm caused
- Deter future non compliance

3.7 How do we achieve compliance?

The Enforcement Policy attached at Appendix 1 sets out in detail the approach taken to achieving compliance across our work areas. The latest review of this policy was approved at Licensing Committee in August 2014. The policy takes account of the Regulator's Charter adopted across Hertfordshire, and the requirements of the Regulators Code issued by Central Government. All officers are required to have regard to this Policy in making decisions and monthly case reviews with Managers, seek to ensure consistency and support for Officers.

3.8 Where possible the officers work proactively to protect, improve and maintain standards in health, safety, welfare and the environment. Formal enforcement may become necessary as a result of this proactive work or reactively responding to complaints and incidents.

3.9 To reiterate the culture and approach promoted, the officers aims are to achieve the vision and corporate objectives. On occasions this means working to resolve issues that are not regulated, working to achieve outcomes above what the legal requirements are, to provide sustainable long term solutions to ongoing problems, whilst working to support businesses and landowners to be successful. As set out in the enforcement policy, enforcement in its generally understood meaning i.e. the use of formal means to achieve compliance; is just one of the tools used to achieve our aims and in the vast majority of cases is the last resort.

3.10 Procedure for investigation

The fly tip procedure

The procedure to investigate a fly tip follows a graduated enforcement process and where

possible the officers will adopt a policy of informal resolution which gives the opportunity for the offence to be remedied.

In summary, the environmental crime officers will;

- Attend the report of fly tip within 48 hours (generally 24 hours) of the report
- Investigate the nature of the waste looking for evidence as to it's source
- If a **Domestic waste issue** - Refer to Veolia for information/education
- If **evidence for an alleged offender** – continue to follow fly tipping procedure
- Evidence is secured, photos taken and records made – these are all stored and logged in the office.
- If on **public land**, it will be referred to Veolia for clearance within 24 hours of visiting.
- If on **private land** officers will carry out a land registry check before writing to the owner and requesting them to clear the waste.
- Further investigation will then take place to understand the exact nature of the offence. This can include verification of name and address and or making further enquiries with other agencies and departments (i.e council tax, police, housing associations, landlords, other government agencies, probation, mental health teams, doctors) as well as wider investigation to trace individuals such as tracking delivery references, checking registered keeper details etc.
- Contact the alleged offender to discuss the matter, this may be as a recorded interview under caution.
- Following completion of the investigation a decision as to the proposed outcome will be made such as prosecution, informal warning, fixed penalty notice etc.

3.11 The environmental crime team consider each case individually and holistically and the time spent on each case can vary dramatically. It is not unusual for it to take many months to get a case to court.

3.12 When considering the appropriate enforcement action, the team will take account of different factors including actual or potential harm or loss to any individual; risks to public health, public safety or the environment ; the perpetrators attitude towards compliance; evidence of premeditation; obstruction of officers; national and local enforcement priorities; statutory guidance and codes of practice; legal advice; and any commercial benefit accrued because of non-compliance.

3.13 Consideration of the above factors leaves the officers with a range of options:

- No further action - taking informal action, giving advice, providing a long term solution
- Issue a warning
- Offering a simple caution
- Bringing a prosecution
- Issuing statutory notices
- Seizure of vehicles
- Issuing a fixed penalty notice (FPN)
- Application for confiscation of assets

3.14 Case Examples

Please refer to Appendix 2 for some of the environmental crime teams case examples, including the factors taken into consideration by the case officer and the outcome of each case.

3.15 When looking at the attached case examples you will notice that they have been split into private and public land accumulations. The reason for this is because a different approach has to be taken by officers with regards to clearance of fly tipped items on private land as the responsibility for clearance is that of the land owner, whereas public land is the responsibility of the Council.

3.16 If a fly tip is on public land, the officers will aim to investigate the waste for evidence before referring it to Veolia for clearance. If, however, the fly tip is on private land, the officers will still investigate the waste in exactly the same way, but will then need to establish land ownership and speak with the landowner to agree how the waste is to be cleared. The only exception to this is where the waste presents an unacceptable risk to the public or environment in which case the team would seek to get the private land cleared and then possibly recharge the costs to the owner.

3.17 This process can sometimes be time consuming and cause anger from land owners but as part of the process officers try to support land owners to take preventative measures to avoid future fly tipping on their land. In addition, if formal action is taken, or the alleged offender found officers will also encourage them to have to pay/arrange/payback the costs for clearance.

3.18 Where landowners are not cooperative and don't agree to clear the waste officers will consider if formal notices can be served to require the waste to be cleared and if they are not complied with the council can carry out works in default and recharge the land owner. This requirement again is a matter of judgement. If a fly tip consists of inert material that will not attract vermin and it is in a rear yard not visible to the public it is unlikely the council could require clearance. In most other cases however, there are powers to require clearance.

3.19 Challenges

Service-roads and alleyways are notoriously difficult to deal with and as they are private land it is the responsibility of the land owners to deal with any clearances of fly tips or accumulations. In the case of alley ways this is invariably the local residents, and in the case of service roads these are sometimes off shore property holding companies and again multiple owners. To gain a general consensus from all the residents/owners to take responsibility is difficult and time consuming but is needed in any strategy to deal with repeated and long term problem locations.

3.20 Service-roads and alleys can look uncared for, and abandoned, through unkempt overgrowth, and storage of various unwanted items by residents to the rear of their properties. They are often isolated, unlit and insecure and so can become targets for fly tipping. Where possible the environmental crime team works with active residents associations or voluntary community clear up groups, to arrange for clearance of items and encourage long term solutions to deter further fly tipping. Refer to Appendix 3 for case examples.

- 3.21 Often lighting and security of the site could improve the situation but would be impractical and costly in many alley way cases. Improving the site visually (broken window theory) is within the capability of the residents. An annual contribution by the residents to a fund could deal with any clearance issues encountered at the site. But none of this is possible without the residents joining together to take responsibility and care of their service-roads and alleys. Councillors play a key role in enabling this.
- 3.22 In relation to service roads such as those in the inner ring road, the team are currently proactively tackling these areas to ascertain ownership and establish action plans for each area in an attempt to bring about long term improvements for business and residential users in relation to their entire condition. The introduction of new legislation to tackle anti social behaviour may be useful in requiring landowners to proactively maintain areas such as these with public access and high visibility.
- 3.23 A further challenge faced by the environmental crime team is when land is unregistered or they are unable to trace the land owner to arrange for clearance. Unregistered land in Watford most commonly consists of alleyways and service roads, which are usually out of view of the public and therefore reduces the risk of anyone being caught in the act, thus making it quite appealing to fly tippers.
- 3.24 Whilst the environmental crime team can still pursue the investigation on such land, they are unable to approach any responsible persons to clear the waste. They therefore have to make a decision, based on the risks and impact as to whether the Council clears the waste. This would definitely happen if there was any potential public health risk or the waste could attract or harbour vermin.

3.25 Fly tipping figures

NATIONAL – Fly tipping total by category				
FINANCIAL YEAR	2010/11	2011/12	2012/13	2013/14
FLYTIPS	TOTAL	TOTAL	TOTAL	TOTAL
CATEGORY				
animal carcass	8501	8235	8085	7349
green	37876	36844	33931	38241
vehicle parts	8837	7004	6649	6594
white goods	31413	18817	14747	35852
other electrical	26797	19400	18163	17810
tyres	22274	18959	15744	15611
asbestos	4761	3953	4446	3481
clinical	1764	2231	1395	1382
construction/demo./excavation	55175	49241	44944	52967
black bags commercial	28213	24479	20183	38493
black bags household	205013	184091	162648	169261
Chemical drums oil/fuel	3605	3212	2868	3063
other household waste	358675	347330	353644	427688
other (unidentified)	42448	27799	22761	29884
FLYTIP TOTAL	896661	812839	765960	903113
PERCENTAGE CHANGE + / -	-	- 9.3%	- 5.8%	+17.9%
WATFORD – Fly tipping total by category				
FINANCIAL YEAR	2010/11	2011/12	2012/13	2013/14
FLYTIPS	TOTAL	TOTAL	TOTAL	TOTAL
CATEGORY				
animal carcass	57	20	1	2
green	25	20	30	9
vehicle parts	11	6	4	2
white goods	22	4	4	12
other electrical	94	65	30	3
tyres	10	11	7	1
asbestos	1	3	4	4
clinical	54	1	0	0
construction/demo./excavation	55	37	22	56
black bags commercial	16	227	37	26
black bags household	1260	898	416	309
Chemical drums oil/fuel	10	6	5	2
other household waste	742	758	537	496
other (unidentified)	61	42	24	46
FLYTIP TOTAL	2507	2119	1127	977
PERCENTAGE CHANGE + / -	-	- 15.5%	- 46.8%	- 13.3%

3.26 Fly tipping trends

Watford Borough Council figures show a significant year on year decrease in the total amount of fly tips between 2010 to date. These figures correlate with the national figures,

although the amount of fly tips recorded nationally increased between 2013-2014. In addition, between 2011 and 2012 Environmental Services, which incorporated the services now provided by Veolia, and the Environmental Crime team invested their time amending and improving the accuracy of the processes for reporting and recording fly tipping. Examples include preventing the recording of road kill on the highway (animal carcasses reduced from 57 in 2010/11 to 1 in 12/13) and ceasing to record domestic waste presented in addition to a wheelie bin from the figures (1260 in 2010/2011 to 416 in 2012/13).

- 3.27 A number of local authorities including Watford Borough Council have reported a significant increase in the amount of fly tipped white goods between 2013-to date, following a year on year decrease (4 in 2012/13 to 12 in 13/14).
- 3.28 Scrap metal collection and fly tipping are closely connected. Unlicensed scrap metal collectors will often cold call at a property and offer to take the residents waste for a small fee, they will then fly tip the items of no value and weigh in the remaining scrap metal for cash. In order to reduce this issue new legislation was introduced in 2013 requiring dealers and collectors to be licensed. Following joint operations by the team, Licensing and the Police to target illegal collectors, we now see fewer collections of white goods placed outside homes and a resultant increase in recorded fly tipped white goods.
- 3.29 The team intends to do a publicity campaign shortly to advise residents of the legal and safe ways to dispose of scrap metal and other waste, and to warn of the dangers of using unlicensed waste collectors or those that seem to be offering a deal that is too good to be true. This will incorporate information from the recent prosecution case of a scrap dealer explained in Appendix 2.
- 3.30 In addition, working with Veolia, the team made further improvements to the processes to improve efficiency and the speed that items fly tipped on public land were cleared in 2013. For instance a report of a fly tipped bulky item without a witness would no longer be sent to environmental crime to investigate' this would automatically be referred straight to Veolia for clearance. It is still recorded as a fly tip but there is no point in a delay in clearance that impacts on the locality and a waste in officer resources in visiting the fly tip when we know there is highly unlikely to be any evidence.
- 3.31 The year on year reduction in fly tips within Watford, combined with the improvement in internal processes has enabled officers to move from a reactive to a proactive approach. This enables projects to target hotspots like the service roads to be undertaken and more information and education preventative work to be delivered as shown in Appendix 2 and 3.

3.32 Team performance

ENFORCEMENT ACTIONS	11/12	12/13	13/14
investigation:	326	193	201
warning letter:	28	10	9
statutory notice:	28	11	16
fixed penalty notice:	58	41	34
duty of care inspection:	131	83	78
stop and search:	0	0	3
vehicles seized:	0	0	0
formal caution:	1	0	2
prosecution	0	11	4
TOTAL	572	349	347
PERCENTAGE	27%	31%	36%
FLYCAPTURE EFFECTIVENESS GRADING	Not Effective	Effective	Very Effective

3.33 The teams performance is calculated through data submitted to the Environment Agency by all Waste Collection authorities. This formed the basis of a previous National Indicator NI196.

The data consists of all fly tips including details of the amount, size, waste type and location. Data is also submitted detailing the enforcement actions and outcomes undertaken and achieved. The performance 'score' is then determined by comparing present levels of fly-tipping and enforcement activity with that of the previous year. The effectiveness of each local authority is then graded as poor, not effective, effective or very effective based on the number of incidents of fly tipping (decrease, same, increase) and the number of enforcement actions (increasing, same level, increase).

3.34 Since 2011 Watford Borough Council has steadily improved our performance from not effective to very effective in 13/14. This means in 2013-2014 there was a decrease in the amount of fly tipping incidents relative to the number of enforcement actions. We are aiming for very effective again in 14/15. In addition, during the coming year it is planned to introduce a new performance measure to monitor the time taken to restore land back to it's original quality. This will be implemented once upgrading the case management system has been completed so as to enable effective and accurate reporting.

3.35 In conclusion, it is encouraging that Watford Borough Council's fly tipping figures generally show a downward trend, however, it is clear that 802 incidents of fly tipping in Watford between 2013-2014 remains a serious environmental and social problem. The environmental crime team will continue to work in partnership with Veolia to ensure that reactive reports of fly tipping are investigated and cleared within the set timescales. They will also work with Veolia to identify fly tipping hot spots and proactively target these areas, advising and encouraging land owners to implement long term solutions, making them less accessible to fly tippers. Key to effective service delivery however, is the effort taken to assess the nature of each offence, to tackle the reasons behind it where appropriate, and to support and require long term improvements to areas to reduce fly tipping opportunity. This approach enables behaviour change in individuals and/or changes the physical environment to reduce the likelihood of dumping thereby producing

sustainable reductions in offences.

4.0 **IMPLICATIONS**

4.1 **Financial**

The Shared Director of Finance states that there are no financial implications in reporting performance of this service.

4.2 **Legal Issues** (Monitoring Officer)

The legal implications are dealt with in the enforcement policy.

Appendices

Appendix 1 – The Enforcement Policy

Appendix 2 – Environmental Crime case examples

Appendix 3 – Long term solutions - Example of targeting a fly tipping hot spot

Background Papers

The following background papers and internet sources were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Background papers;
The Enforcement Policy

Internet sources;
www.flycaptureenvironmentagency.gov.uk
www.legislation.gov.uk/ukpga/2013/10/enacted

File Reference

None