





Report of: Environmental Enforcement Scrutiny Review Group

To: Environment Scrutiny Committee

Date: 15th January 2007


Item No:

Title of Report : Environmental Enforcement Scrutiny Review – Final Report




**urpose of report:** To present the findings and recommendations from the Environmental Enforcement Scrutiny Review.

Key decision: No


Portfolio Holder: Councillor Jean Fooks, Cleaner City Portfolio Holder


Scrutiny Responsibility: Environment Scrutiny Committee

**d(s) affected:** All

Report Approved by: Andy Collett, Finance and Asset Management, Emma Smith, Planning, Legal and Democratic Services.

**Policy Framework:**

**ommendation(s):** The Environment Scrutiny Committee is asked to endorse the following recommendations for presentation to the Executive Board:

**ommendation 1** – That the Council adopts an enforcement policy / framework as soon as possible, which reflects the Council's aims and objectives in relation to environmental enforcement. The policy should be well publicised so that offenders are aware of the potential consequences if they are caught committing an environmental crime and the public know what response the Council will take in a given situation.

Recommendation 2 – The Council agrees a uniform approach to issuing FPN's across the range of offences that they can be issued for, so that there is a standard response in all areas of the city to a particular offence.

Recommendation 3 – An agreed set of “indicators of success” that the Council’s enforcement work can be judged against should be presented to ESC by April 2007, along with the methodology for measuring the indicators. At least one member of ESC should be involved in choosing these indicators.

Recommendation 4– The city centre Enforcement Officers don’t continue with their education work, but focus on enforcement. There are other officers in the Council (such as Malcolm Hart in City Works) who already cover the education side of enforcement. Street Wardens also do some informal education as they patrol in their areas and they visit schools.

Recommendation 5 – The city centre Enforcement Officers provide advice and support to other enforcement teams, using their specialist knowledge to ensure consistency and good practice in enforcement across the city.

Recommendation 6 – Members are informed as soon as possible what officers are responsible for in enforcement terms - e.g. who can issue FPN’s and for what offence, which officers can take forward prosecutions, and most importantly, who is in overall charge of enforcement within the Council (possibly the Environmental Health Business Manager). This is so that the lines of responsibility are clear to members and appropriate support and guidance available to those carrying out enforcement work. This should be done within 3 months (by April 2007) and Executive Board should advise Environment Scrutiny once this work is done. It is also necessary for the relevant officers to have the delegated authority to do this work.

Recommendation 7 – Appropriate City Works staff (managers and supervisory staff were suggested to the review group) are trained and given the powers to enable them to issue Fixed Penalty Notices for environmental offences as soon as possible. The Environment Scrutiny Committee should be informed once this has happened.

Recommendation 8 – The Executive Board asks officers (perhaps through the Cleaner, Greener Working Group) to widen the enforcement protocol between Environmental Health and City Works to other business units and also to include other environmental crimes, not just fly tipping. As other teams (such as Street Wardens) become more involved in enforcement work, it will be important for each to understand the roles and responsibilities of the others. Proposals should be put before the Executive Board and the correct delegated authority given to officers carrying out enforcement work.

Recommendation 9 - The review group recommends that the Environment Agency are approached to find out what they would be prepared to offer Oxford City Council in terms of help and assistance to improve enforcement in Oxford. A local agreement with the Environment Agency should be signed without delay. The Environment Scrutiny Committee should be kept up to date on progress with this.

Recommendation 10 – An action plan setting out the process to invoice and collect costs from commercial and retail landowners on whose land an

environmental crime has taken place, such as graffiti on utility boxes, is prepared and reported to Environment Scrutiny Committee by April 2007. If it is not possible to do this, the Committee should be told the reasons why as soon as possible.

Recommendation 11 – Effort should be made to ensure all Oxford University Colleges agree that City Works are able to clean graffiti off their walls, without having to seek permission each time. Costs should also be recovered where possible. Progress with this should be reported to Environment Scrutiny Committee in 3 months time.

Recommendation 12 – Supermarkets should be charged a collection fee when they pick up trolleys from the City Works depot, providing schedule 4 of the Environmental Protection Act 1990 is adopted by the Council. The fee should cover the cost of recovering them, taking them back to the depot, storage and administration, in line with legislation.

1. Introduction

- 1.1 The Environmental Enforcement Scrutiny Review has been completed. This report sets out the review group findings and recommendations.

2. Background

- 2.1 A review group was set up to carry out the review into environmental enforcement. Councillors Sid Phelps and Susanna Pressel were nominated to this group. Claire Taylor (Corporate Performance Manager) and latterly Andrew Davies (Scrutiny Officer) supported the review.
- 2.2 The rationale for carrying out the review:
- Comments from Area Committees during work planning consultation highlighted cleanliness as a priority for residents.
 - The Oxfordshire Waste Partnership Audit Report (September 2006) said, “the use of enforcement is ineffective”.
 - There are significant and new enforcement powers available to Local Authorities. Through strong coordination and partnership working, councils can achieve better results for residents.
 - There is a significant cost to the Council to clean up environmental crimes – the cost to the Council of cleaning up fly tipping incidents between April and October 2006 was £83,000.
- 2.3 The review group was keen to consider the following issues:
- The City Council’s current approach to environmental enforcement and what is planned for the future;
 - The effectiveness and outcomes of this approach;
 - Where there are gaps in service;
 - Best practice in other councils;

- Performance monitoring arrangements and results;
- What blockages there are to successful environmental enforcement;
- The most effective way to improve performance in these areas.

2.4 The review methodology involved a desktop analysis of current Council policies and procedures and interviews with:

- Councillor Jean Fooks, Cleaner City Portfolio Holder
- Sharon Cosgrove, Strategic Director (Physical Environment)
- Michael Lawrence, Strategic Director (Housing, Health and Community)
- John Copley, Business Manager, Environmental Health
- Val Johnson, Business Manager, Neighbourhood Renewal
- Ian Wright, Public Health Team Leader
- Rod Hindmarsh, Street Warden Operations Manager
- David Huddle, Area Manager
- Andy Talbot, Thames Valley Police
- Steve Clare, Environment Agency

3. Main Findings

3.1 Enforcement Policy and Approach to Enforcement

3.2 The Clean Neighbourhoods and Environment Act 2005 extended powers available to local authorities to carry out enforcement action in response to environmental crime. Responding to the new legislation has been a significant challenge for Councils. Work has been ongoing to ensure that Oxford City Council is well placed to respond to these challenges. However, the scrutiny review group believes that there are ways to improve our approach to enforcement, to make our policies clearer to members of the public and also to officers responsible for delivering them.

3.3 The review group believes that the first step to putting together an effective response to the challenges of environmental enforcement is to have a clear enforcement policy. The review group was shown an “enforcement policy”, developed by the Cleaner, Greener Working Group in November 2005. In addition to this, the Environmental Health Business Unit already had an Enforcement Policy, as well as two specific policies for food and noise. The review group was told that food and noise enforcement policies were legal requirements and both are available on the Council’s website.

3.4 There were conflicting views about the status of the Cleaner, Greener Group’s “enforcement policy”. At least one person interviewed has said that it isn’t a policy at all. At the time of her interview, the portfolio holder hadn’t seen the policy. The review group felt that the confusion wasn’t helping the Council in ensuring that there were clear goals

regarding enforcement. If enforcement is to be carried out by teams of people new to the role (such as Street Wardens), the review group believes a clear policy and framework to guide this is essential. Although the Council does not yet have an agreed enforcement policy, enforcement work has continued.

- 3.5 A seminar was held on 9th November 2006 to start the process of putting together an enforcement policy for Oxford City Council. All members were invited to the seminar and the Scrutiny Review Group contributed to this by producing a paper outlining the initial findings from their research. Since the seminar on 9th November, a further document has been produced, a protocol on enforcement. The protocol is virtually the same as the Cleaner, Greener Working Group "enforcement policy". The Environment Scrutiny Committee will consider the protocol on 15th January 2007. The review group is pleased that the Council now has a draft protocol in place and is taking this forward for political approval, but is surprised it has taken a year to bring this forward for members to consider.
- 3.6 The review group believes that the City Council must adopt a consistent approach to enforcement and this should be made clear in the enforcement protocol. It should be clear to members of the public that if they carry out an offence and are caught they will be punished in an appropriate and consistent way. As well as adopting a consistent approach to individual offences, the Council should also look to provide a consistent enforcement service across the city and not necessarily single out certain areas, such as the city centre, unless clamping down on a known problem – the recent monitoring of a well-known fly tipping spot for example. An enforcement policy, setting out categories of offence, and a standard response to those offences would be extremely helpful to ensure consistency of service.

Recommendation 1 – That the Council adopts an enforcement policy / framework as soon as possible, which reflects the Council's aims and objectives in relation to environmental enforcement. The policy should be well publicised so that offenders are aware of the potential consequences if they are caught committing an environmental crime and the public know what response the Council will take in a given situation.

4. Fixed Penalty Notices (FPN's)

- 4.1 Fixed Penalty Notices are one of the enforcement tools that local authorities are able to use to target low-level environmental crime such as dropping litter and dog fouling. The Council's City Centre Enforcement Officers, Street Wardens and Park Rangers should be able to issue FPN's but at the time of writing have not done so. Police Community Support Officers (PCSO's) are also able to issue FPN's, but they have still to issue an FPN for an environmental offence such as dropping litter.

- 4.2 The review group received feedback from interviewees that Street Wardens have been reluctant to issue FPN's. There are a number of reasons for this. Street Wardens have been told to use FPN's as a last resort after other non-punitive action has been taken to try and resolve an issue. This decision has been taken without a policy or framework in place to guide enforcement activity (that's not to say that this isn't the correct approach) and this may be hampering progress. Issuing FPN's is a new task for Street Wardens and so it is natural that there would be some reluctance to issue one unless they felt confident to do so.
- 4.3 The review group is concerned that the Council was using the local media to publicise a wider enforcement role for Street Wardens in June 2006, but only recently have all Street Wardens finished the necessary training required to issue FPNs. The review group was also told that there has been a delay in ensuring the correct papers were available for Street Wardens to issue FPNs. The review group believes it would have been more appropriate to publicise the scheme after the Street Wardens training had been finished and they were able to issue FPN's because the systems to do so were in place.
- 4.4 There are already four different teams – Environmental Enforcement Officers, Street Wardens, Park Rangers and PCSO's who are able to issue FPN's. This will soon be increased to include staff from City Works. Those interviewed believed that a standardized approach to issuing FPNs is needed and should be adopted by all who have the power to issue them. It should be clear to members of the public what the response will be if they are caught committing an offence, no matter which part of the city they are in.
- 4.5 It is also important that there is good communication and co-ordination between the Street Wardens and PCSO's, and not just on their work dealing with environmental issues. The review group was encouraged to learn of initiatives such as Neighbourhood Tasking Meetings. The meetings will be held fortnightly to allocate tasks between the police, PCSO's, Street Wardens and other Council services to deal with emerging issues in different parts of the city. These are not working yet, but will be launched across the city in the near future and are linked to the Neighbourhood Policing models.
- 4.6 There is unanimous agreement amongst those interviewed by the review group that the Council shouldn't set targets for the issuing of FPNs. Thought should be given to indicators of success that the Council is looking for by giving Street Wardens and other the powers to issue FPNs and employing Enforcement Officers for the City Centre. The Environment Scrutiny Committee should monitor those indicators on a quarterly basis.

Recommendation 2 – The Council agrees a uniform approach to issuing FPN's across the range of offences that they can be issued for, so that

there is a standard response in all areas of the city to a particular offence.

Recommendation 3 – An agreed set of “indicators of success” that the Council’s enforcement work can be judged against should be presented to ESC by April 2007, along with the methodology for measuring the indicators. At least one member of ESC should be involved in choosing these indicators.

5. Enforcement Officers

- 5.1 The City Council has appointed two Enforcement Officers to work in the City Centre. One Enforcement Officer has been in post since the summer of 2006. The second started work in late 2006 (although there was a temporary member of staff working with the Enforcement Officer in post). The Enforcement Officers are based in the Public Health Team in the Environmental Health Business Unit.
- 5.2 The review group has been told that their original focus was to be on litter enforcement in the City Centre. However, this appears to have changed and they will work on areas such as early presentation of trade waste as well as having an education and awareness raising role. The review group is pleased that the enforcement role of the officers has been widened, but concerned that non-enforcement work has been added to their duties.
- 5.3 It is also of concern that the Enforcement Officers will be restricted to working in the City Centre. The review group suggests that the Enforcement Officers spend time with other officers (such as the Street Wardens, Park Rangers and even PCSO’s) offering advice and support and ensuring consistency as they become used to the enforcement role. The Public Health Team Manager was not opposed to this idea when interviewed. The review group hopes that this will be considered.
- 5.4 Enforcement Officers should be exactly that; people with specialist skills and experience to deal with enforcement issues across the city. The two specialist enforcement officers will be in a pivotal position to provide support and consistency throughout the city. Without support, the review group believes that the other teams working on enforcement will not be able to deliver enforcement services in any co-ordinated way. Without consistency the reputation of the Council could be compromised, and in turn, the effectiveness of enforcement actions.
- 5.5 The review group is not suggesting that Enforcement Officers spread themselves thinly over the whole city. Their role should include providing support, assistance & consistency to other teams working on enforcement across Oxford. Priorities in each area will be influenced by the Area Committee and or Neighbourhood Action Group (NAG), but consistency in approach is vital if the reputation of the Council's enforcement regime is to be maintained.

Recommendation 4– The city centre Enforcement Officers don't continue with their education work, but focus on enforcement. There are other officers in the Council (such as Malcolm Hart in City Works) who already cover the education side of enforcement. Street Wardens also do some informal education as they patrol in their areas and they visit schools.

Recommendation 5 – The city centre Enforcement Officers provide advice and support to other enforcement teams, using their specialist knowledge to ensure consistency and good practice in enforcement across the city.

6. Responsibilities for Enforcement

- 6.1 The review group believes that there should be one person within the Council who takes overall responsibility for enforcement work. The different elements of environmental enforcement are spread across a number of business units – Environmental Health, City Works, Leisure and Parks, Neighbourhood Renewal, Legal Services. Co-ordinating the different teams to ensure a consistent and effective approach to enforcement is crucial if the service is to be effective.
- 6.2 Overall responsibility for enforcement activity isn't obvious to the review group. It hasn't been possible to establish what each team is responsible for and how they will be working together – perhaps this will become clear once an enforcement policy is in place. This is one of the main areas of concern for the review group.

Recommendation 6 – Members are informed as soon as possible what officers are responsible for in enforcement terms - e.g. who can issue FPN's and for what offence, which officers can take forward prosecutions, and most importantly, who is in overall charge of enforcement within the Council (possibly the Environmental Health Business Manager). This is so that the lines of responsibility are clear to members and appropriate support and guidance available to those carrying out enforcement work. This should be done within 3 months (by April 2007) and Executive Board should advise Environment Scrutiny once this work is done. It is also necessary for the relevant officers to have the delegated authority to do this work.

7. Suggestions for Improvement

- 7.1 A number of the people interviewed offered suggestions to improve enforcement work. Some involved better partnership working, others may require more resources. Some are small changes that the review group believes can be implemented quite easily. Ways to improve enforcement included:

- 7.2 Citywide coverage by enforcement officers – The review group wasn't convinced that recruiting more enforcement officers was necessary so that there was citywide coverage given the number of other staff (Street Wardens, Park Rangers and PCSO's) who are able to carry out enforcement work. If the Council is to adopt a consistent approach to environmental enforcement across the city these teams need to work together and be signed up to the same principles, hopefully meaning that a resource intensive option such as employing more staff isn't necessary. The review group was also told that supervisory and management staff in City Works are to be trained so that they are able to issue FPN's for environmental offence. This is welcomed and the review group hopes that this happens without delay.

Recommendation 7 – Appropriate City Works staff (managers and supervisory staff were suggested to the review group) are trained and given the powers to enable them to issue Fixed Penalty Notices for environmental offences as soon as possible. The Environment Scrutiny Committee should be informed once this has happened.

- 7.3 Fly Tipping Protocol - The Cleaner, Greener Working Group developed the fly tipping protocol between City Works and Environmental Health, agreed in November 2005. This protocol's aim was to improve joint working between the two business units in an effort to reduce the number of fly tipping incidents, initially through prosecution of offenders. To date there hasn't been a successful prosecution and the review group has been told that the number of cases being referred to Environmental Health for further investigation is small. However, there is evidence of a reduction in the number of fly tipping incidents in the first 6 months of 2006/07 compared to the same period last year, which is encouraging. There are no plans for widening the protocol to include other environmental crimes, such as graffiti and fly posting.
- 7.4 Referrals from City Works to Environmental Health – perhaps a sign that the fly tipping protocol is taking time to become the normal way of working, but the number of referrals to Environmental Health from City Works has been quite low (6 in September 2006, 2 in October 2006 whilst the number of fly tipping incidents in the city between April and September 2006 was 1740). Feedback from both business units is that working relationships are good and the protocol is a positive step forward. There haven't been many opportunities to pursue a fly tipping prosecution. As the arrangements become more familiar, the review group hope that the number of referrals will increase. This may require a change in attitude amongst some of the refuse collectors, who may feel more inclined to clear up fly tipping then sift through it to find evidence of the perpetrator.

Recommendation 8 – The Executive Board asks officers (perhaps through the Cleaner, Greener Working Group) to widen the enforcement protocol between Environmental Health and City Works to other business units and also to include other environmental crimes, not just

fly tipping. As other teams (such as Street Wardens) become more involved in enforcement work, it will be important for each to understand the roles and responsibilities of the others. Proposals should be put before the Executive Board and the correct delegated authority given to officers carrying out enforcement work.

- 7.5 Revising the Council's constitution to ensure that the right powers are available to the officers who need them – The review group was told that this would assist officers in carrying out enforcement work. The constitution is currently being reviewed and it is hoped that these issues are picked up in that review.
- 7.6 Routine feedback to Street Wardens when cases are being investigated – this seems relatively straight forward, but feedback to Street Wardens (and others) when cases are being investigated would be helpful, especially so that members of the public can be kept up to date with progress. Once NEATs are up and running, there will be one point of contact for each area of the city, which should assist with this. Likewise, improved response times to investigate incidents, or at least indicate when an incident will investigated should improve when NEATs are in place.
- 7.7 Working with the Environment Agency – the Environment Agency have experience in enforcement and are willing to work with local authorities to help them develop their enforcement role. A local agreement (based on a national agreement between the Local Government Association and the Environment Agency), offering advice, assistance and equipment from the Thames Valley West Region of the Environment Agency has been signed by 14 out of 19 local authorities in the region. Oxford City Council has yet to sign up to this agreement. The review group met with an Enforcement Officer from the Environment Agency. He agreed that carrying out environmental enforcement for crimes such as fly tipping is not easy. It took the Environment Agency in the Thames West region some time before it felt confident to take forward a prosecution. He would encourage Oxford City Council to sign the agreement and accept assistance to do this work. The Scrutiny Committee would also like to see closer co-operation with Oxfordshire County Council on enforcement issues, to tackle problems such as fly tipping on the ring road.

Recommendation 9 - The review group recommends that the Environment Agency are approached to find out what they would be prepared to offer Oxford City Council in terms of help and assistance to improve enforcement in Oxford. A local agreement with the Environment Agency should be signed without delay. The Environment Scrutiny Committee should be kept up to date on progress with this.

8. Previous Requests from the Environment Scrutiny Committee

- 8.1 On 14th August 2006 the Environment Scrutiny Committee suggested to the Strategic Director (Physical Environment) and the Environmental Health Business Manager that:

“It should be standard practice to send out invoices whenever the City Council incurred costs in cleaning up graffiti or fly posters etc, and could identify perpetrators, regardless of whether that would lead to a prosecution. If the perpetrator could not be identified, the invoice should be sent to the owner of the property cleaned”.

- 8.2 The review group would like this and other similar problems to be addressed. The review group is of the view that where costs are incurred to clean up a wall or a utility box the owner of the property should be invoiced for the cost of the work. At the very least this will send out a message that the Council takes this issue seriously even if costs are seldom recovered.

Recommendation 10 – An action plan setting out the process to invoice and collect costs from commercial and retail landowners on whose land an environmental crime has taken place, such as graffiti on utility boxes, is prepared and reported to Environment Scrutiny Committee by April 2007. If it is not possible to do this, the Committee should be told the reasons why as soon as possible.

Recommendation 11 – Effort should be made to ensure all Oxford University Colleges agree that City Works are able to clean graffiti off their walls, without having to seek permission each time. Costs should also be recovered where possible. Progress with this should be reported to Environment Scrutiny Committee in 3 months time.

Recommendation 12 – Supermarkets should be charged a collection fee when they pick up trolleys from the City Works depot, providing schedule 4 of the Environmental Protection Act 1990 is adopted by the Council. The fee should cover the cost of recovering them, taking them back to the depot, storage and administration, in line with legislation.

9. Conclusion

- 9.1 The Environment Scrutiny Committee should discuss the review group’s report and recommendations and decide if it wishes to endorse them for consideration by the Executive Board.

Appendix – Draft minute of Environment Scrutiny Committee

Name and contact details of author: Andrew Davies, Scrutiny Officer, on behalf of the Environmental Enforcement Scrutiny Review Group

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Background papers: None



APPENDIX

DRAFT MINUTE OF ENVIRONMENT SCRUTINY COMMITTEE 15 JANUARY 2007

61. ENVIRONMENTAL ENFORCEMENT SCRUTINY REVIEW

The Scrutiny Manager submitted a report (previously circulated, now appended).

Resolved to endorse the twelve recommendations as set out in the report and ask the Executive Board to note the Scrutiny Committee's comments in addition to the recommendations as follows:

Recommendation 1: the Committee suggested, with a view to ensuring that the widest consultation was conducted as required, greater co-operation with the County Council and the Environment Agency to deal with issues such as fly-tipping on the ring road and parking on verges;

Recommendation 3: the Committee endorsed the current ongoing system of area based reporting back to the Area Committees on enforcement and associated issues.

Recommendation 9: the Committee endorsed progress on proposed agreement with the Oxford Local Environment Group outlining more precisely where the Environment Agency were able to assist Local Authorities with resources towards specific projects.