





Report of: Environment Scrutiny Committee

To: Executive Board














Date: 4th February 2008

Item No:

Title of Report : Recommendations on Environmental Enforcement

Summary and Recommendations

Purpose of report: To present to Executive Board recommendations from Environment Scrutiny Committee on environmental enforcement.

Key decision: No

Portfolio Holder: Councillor Jean Fooks, Cleaner City Portfolio Holder

Scrutiny Responsibility: Environment Scrutiny Committee

Area(s) affected: All

Report Approved by: Andy Collett, Finance and Asset Management and James Pownall, Legal and Democratic Services

Policy Framework:

Recommendation(s): The Executive Board is asked to respond to the Environment Scrutiny Committee's recommendations:

1. To express their disappointment that of the 25 FPN's issued to people between April and October 2007 for non-compliance with the Council's waste collection service, only 3 had been paid.

That the Council should consider fining landlords, who have a duty of care over their properties, rather than fining students in cases where waste collection requirements aren't being met (such as early presentation of waste, or side waste). This is to ensure that landlords remain responsible for the behaviour of people in their property, and to increase the likelihood of fines being paid.

3. That the City Council should look to charge the owner of a vehicle if it is recovered as an abandoned vehicle if it does not already do so. This is in line with the polluter pays theory.

4. That the fly tipping best value performance indicator (BVPI 199d) should be collected quarterly. This indicator measures the total incidents of fly tipping dealt with and the increase in action taken against fly tipping. We are only measuring this annually at present. The City Council has recorded 11% more fly tipping incidents in 2007/08 than 2006/07, but is unaware of the cumulative number of enforcement actions taken. The Cleaner Greener group should be asked to address this.

1. Introduction

1.1 The Environment Scrutiny Committee considered a report setting out environmental enforcement performance data at its meeting on 14th January 2008. The minute of the committee's discussion is included at appendix 1 to this report.

1.2 Environment Scrutiny Committee made four recommendations. They related to fixed penalty notices, abandoned vehicles and fly tipping.

2. Fixed Penalty Notices

2.1 Environment Scrutiny Committee considers information from the Cleaner Greener Group three times a year on environmental enforcement. At their meeting on the 14th January 2008, the Committee considered information on activity in this area between April and October 2007.

2.2 The Committee were concerned that of the 25 fixed penalty notices issued for offences relating to domestic waste collection only 3 had been paid. The reason given for this was that most were issued to foreign students who have left the country since the fine was issued. The Environment Scrutiny Committee wishes to inform the Executive Board of its disappointment that more of these fines weren't collected. The Committee is concerned that non-payment of FPN's sends out the wrong message to people who don't comply with the Council's waste collection requirements.

2.3 The Environment Scrutiny Committee believes that in cases where the occupants of a HMO aren't complying with the Council's recycling scheme, the Council should take action against the landlord. The Committee believes that landlords should be responsible for ensuring that people living in their property are aware of the recycling scheme and don't continually break the rules. Landlords are also more likely to be permanent residents in the Oxford area, and so recovering fines should be less problematic. The Environment Scrutiny Committee hopes that Executive Board agrees this recommendation.

3. Abandoned Vehicles

- 3.1 The Committee receives data on the number of abandoned vehicles recovered and the time taken to remove them. The Committee is encouraged that there has been a fall in the number of abandoned vehicles, and that virtually all are recovered within 24 hours.
- 3.2 The Committee is keen that those people who abandon their vehicle meet the cost of clean up, following the principle that the “polluter pays”. If the Council does not already do so, the Scrutiny Committee would like to see the owners of abandoned vehicles charged for their recovery. The Committee hopes that the Executive Board can agree this recommendation.

4. Fly Tipping

- 4.1 The Committee considered information on fly tipping. It was noted that there has been an 11% increase in fly tipping incidents in 2007/08, compared to 2006/07. The Committee was concerned that information on fly tipping presented in the report was incomplete. The cumulative number of enforcement actions taken against fly tipping is unknown because they are not counted until the end of each year. Given the increase in fly tipping, the Committee believe it is important that enforcement activity in this area is monitored, to see what impact it is having.
- 4.2 The Scrutiny Committee hope that Executive Board can support the recommendation to collect the fly tipping best value performance indicator (BVPI 199d) quarterly and instruct the Cleaner Greener Group to do this.

5. Comments from the Portfolio Holder – Councillor Jean Fooks

- 5.1 I share the committee’s disappointment that the fines were unpaid but we cannot pursue people who have left the country. Our enforcement policy is to give two warnings before issuing FPNs, and this will sometimes mean that people have left. It more often means that residents improve their compliance with the waste collection scheme.
- 5.2 We can fine landlords under HMO legislation, and tenants under the Environmental Protection Act. We issue both fines if non-compliance is an issue. Again, we have found that the threat of legal action against landlords has resulted in 100% compliance in future so far. The landlords are very clear that they have a duty of care over waste issues.
- 5.3 Incidents of flytipping are recorded monthly at present and presented to Area Committees quarterly. I would have hoped that this was adequate reporting; NEATs officers reporting to Area committees could be asked to inform the Committee of any action taken

6. Comments from the Head of City Works – Colin Bailey

- 6.1 I support the recommendation but both parties must be subject to enforcement action. The Council does consider prosecuting landlords of HMO's in addition to taking action against tenants under different legislation. When threatened with prosecution, landlords have conformed to the requirements of the legislation.
- 6.2 I don't support the recommendation. The City Council does not currently look to charge the owner of a vehicle if it is recovered as an abandoned vehicle as the associated costs of taking the case to court could outweigh the gain. The legislation allows an officer appointed in writing to submit a Fixed Penalty Notice (FPN) on behalf of the authority. If the FPN is not accepted by the accused, a person is not to be convicted of the offence if they prove (to the satisfaction of the magistrate's court) that they were not the owner at the time of abandonment – i.e. "I sold it" is an absolute defence. As this excuse, is most commonly heard by the Abandoned Vehicles officer, the current position is to use resources on removal where the nuisance is addressed.
- 6.3 I support the recommendation and hope the Cleaner, Greener Group will move to this. The fly tipping best value performance indicator (BVPI 199d) is an annual measure. Monthly information is recorded in addition to the annual requirement for the national fly capture database. It would be necessary to have the local recording validated prior to formally releasing this information and this is resource intensive at a time when the authority is seeking to streamline its back office services. The two factors (Incidents & enforcement actions) are correlated to produce a grade and therefore need to be reviewed in unison. Quarterly monitoring via Area committees is considered sufficient for formal interim monitoring.
- 6.4 The Cleaner Greener group are reviewing performance on a number of issues relating to enforcement and are assessing the current methodologies and resources with the Oxfordshire Waste Partnership's cleansing sub-group.

7. Conclusion

- 7.1 The Scrutiny Committee would like the Executive Board to answer the following questions when considering the scrutiny committee's recommendations:
1. If it agrees or disagrees with the recommendations outlined.
 2. If it agrees when will the recommendations be implemented and who will take the lead?
 3. If it disagrees why?

4. If more information is required from other officers when that will be considered

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Background papers: None



Appendix 1

1. Minutes of Environment Scrutiny Committee – 14th January 2008

62. ENFORCEMENT MONITORING REPORT

The Head of City Works submitted a report (previously circulated now appended) detailing the environmental enforcement information for the period April to October 2007.

With the agreement of the Committee, Dr Chris Clifford addressed the meeting. In summarising his presentation, he said that, based on the research that he had undertaken, there was strong comparative national evidence to suggest that the Council was failing to ensure that adequate enforcement action was being taken, not only in relation to the management of the refuse collection service, but also in other areas of environmental enforcement. Dr Clifford presented a series of data in support of his argument.

The Committee then asked a series of questions on the detail of the report.

Colin Bailey confirmed that Corvu was being used to bring together data from several sources. OX1 was not currently helping with trade waste enforcement. The Chair said that a scrutiny review of trade waste was pending.

Councillor Sinclair asked about the extension of the enforcement scheme to flats and spoke about problems in Windmill Road and the underestimation of the number of HMO's. Councillor Fooks explained how the expansion of the scheme was being progressed and that City Works and Environmental Health continued to work well together. Colin Bailey said that the waste collection survey for flats was complete and how works were ongoing to take the service to this sector including the solutions required for those which were most difficult to deal with. The next cycle of funding would enable the scheme to be rolled out further including continuing the education programme.

The Committee also discussed the difficulties of securing payment on FPN's, especially when they were given to students. Of 25 FPN's issued in Oxford for non-compliance with waste collection requirements, only 3 had been paid. Most were issued to students who had subsequently left the country. The Committee agreed that landlords needed to continue to be encouraged to take responsibility through the ongoing efforts such as the landlord forums.

In response to further questions on the need to publicise through press releases, successful prosecutions and related enforcement action as a deterrent, Claire Taylor said that she would bring further information to

the Committee as part of her next report including details on the publicity that occurred during the chewing gum campaign.

The Committee discussed the need to publicise action taken in relation to enforcement against fly tippers. Councillor Fooks said that the Council needed to secure reliable evidence in order to prosecute fly tipping offenders, and in most case this was not available.

The Committee discussed the issues around dog fouling and agreed that this was best pursued through the Area Committees. Colin Bailey confirmed that this was now his responsibility under the revised management structure and that he would be meeting with the dog warden on reporting and monitoring action at Area Committees.

Colin Bailey said that there had been a problem with the graffiti cleaning agreement with Oxford University Colleges. A pilot had been trialled with one of the university colleges without success. The Chair asked for more information on this, when it was available.

Claire Taylor agreed that the quartile positions relating to fly tipping, graffiti and fly posting had been omitted from the report but that it would be included in future. Members said that there were ongoing problems with reporting incidents of graffiti. Colin Bailey said that the Cleaner Greener Group was aware of the issues and the need for working with other agencies in the face of scarce resources. An agreement with BT had been secured for the supply of paint to clean up utility boxes and a similar arrangement with Virgin/NTL to recover nominal costs of clear up.

Consultation was imminent on an agreement with local supermarkets on charging for the collection of abandoned shopping trolleys. The Chair commented that this had taken a year to come to fruition but was pleased that progress was now being made.

The Committee queried the figures recorded with regard to the increase in the level of fly tipping. Claire Taylor agreed that there was still a need to ensure that incidents were fully recorded on a monthly basis for this performance indicator to ensure that the nature of the problem was reflected accurately.

In concluding the discussion, the Chair thanked Dr. Clifford for his contribution and agreed that the Cleaner Greener Group should be asked to conduct a comparison with other similar local authorities on environmental enforcement.

Resolved to recommend to the Executive Board that:

1. To express their disappointment that of the 25 FPN's issued to people between April and October 2007 for non-compliance with the Council's waste collection service, only 3 had been paid.

2. That the Council should consider fining landlords, who have a duty of care over their properties, rather than fining students in cases where waste collection requirements aren't being met (such as early presentation of waste, or side waste). This is to ensure that landlords remain responsible for the behaviour of people in their property, and to increase the likelihood of fines being paid.

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Asked that officers provide:

1. Information on the publicity undertaken when the fly tipping prosecution took place.

2. Details on the dog fouling service plan and also to ensure Area Committees can see this.