

ENVIRONMENT SCRUTINY PANEL

A meeting of the Environment Scrutiny Panel was held on 9 November 2017.

PRESENT: Councillor Higgins (Chair), Councillor Goodchild (Vice Chair); Councillors Biswas, Branson, Lewis, McGloin (substitute for Councillor Davison) and Walters (substitute for Councillor McGee).

OFFICERS: J Dixon, G Field, A Mace and J Parry.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors Coupe, Davison, Hubbard and McGee.

**** DECLARATIONS OF MEMBERS' INTERESTS**

There were no Declarations of Interest made by Members at this point in the meeting.

**** MINUTES**

The Minutes of the Environment Scrutiny Panel meeting held on 12 October 2017 were submitted and approved as a correct record.

FLY-TIPPING AND ENFORCEMENT – FURTHER INFORMATION

The Director of Environment and Commercial Services, Head of Environment Services and Environment Services Manager were in attendance at the meeting to provide the Panel with further information in relation to the Panel's current review topic – Fly-tipping and Enforcement.

The Service Area had circulated a briefing note, prior to the meeting, which provided information requested by the Panel.

The Panel had requested information as to how fly-tipping was reported to the Council and how it was dealt with. The briefing note provided details of how members of the public could report fly-tipping by telephoning the Council's Customer Contact Centre or by using the Council's on-line self-service portal. The reports were forwarded, via the CRM Firmstep system, to the Environment Central Operations Team at Cargo Fleet Lane where each report was checked to ensure that the fly-tipping was on Middlesbrough Council-owned land. A printed copy of the report was passed to the response crew who would then attend the location and remove the items and sign the printed sheet as 'job completed'. The crew would also record on the sheet, the volume and type of waste removed. The system would then be updated to record that the items had been removed or that 'no items found on inspection' and the report would be closed. Occasionally, the response crew would not be able to remove the items within the service promise timescale of 24 hours on a working day, due to the volume or type of rubbish as a larger vehicle, specialist equipment or additional operatives may be required to remove certain types/volumes. Where fly-tipping was found to be on private land, details would be forwarded to the relevant land-owner for action to be taken.

Elected Ward Councillors were able to report various issues, including fly-tipping, through the One Stop system managed by Performance and Partnerships.

The Panel was informed that the number of One Stop reports received in relation to fly-tipping between 1 January and 20 October 2017 was 348. Between 1 January and 31 December 2016, 498 reports were received.

Panel Members had requested a breakdown of the number of One Stop requests received, by Ward, and this information was attached at Appendix A. It showed that during 2016 (1 January to 31 December 2016) there had been a total of 498 reports of fly-tipping received via One Stop (ie reports submitted through the system by Ward Councillors). This showed that the highest number of reports had been received from the Park End and Beckfield Ward, with 155, followed by Longlands and Beechwood Ward with 121. The fewest reports were received from Ladgate Ward with no

reports being made via One Stop. However, it was clarified that this did not mean there had been no incidents of fly-tipping in the ward, just that they had not been reported via the One Stop system.

Following the Panel's previous meeting on 12 October 2017, Members had requested clarification on several issues raised at the meeting. The Environment Services Manager had provided full details, in an appendix to the attached report. The information clarified the following:-

Previous reference had been made to Section 46/47, 33ZA and 34 FPNs. It was explained that a Section 46 legal notice was served under Section 46 of the Environmental Protection Act 1990 and required the occupier of a domestic premises to provide containers for their waste with a requirement to maintain, store and place the containers for collection. The notice could be used to inform a resident of the day they must present their waste for collection, what types of waste could be placed in the container, whether they should obtain a refuse bin, whether they must use bags/communal bins, that they must not present excess waste, etc. Should the notice not be adhered to, a fixed penalty notice could be issued. In 2015, the offence of failing to comply with a S46 notice was decriminalised. Previously, failure to pay the FPN would have resulted in Court, however, the process was now much lengthier with several letters/demands first being made. Should the FPN still not be paid, it was recoverable as a civil debt. The FPN for failure to comply with a S46 notice was £110, reduced to £60 if paid within 10 days.

A Section 47 legal notice served under Section 47 of the Environmental Protection Act 1990 required the occupier of a commercial/industrial premises to provide containers for their waste and to maintain, store and place them appropriately for collection. Again, control of what was placed in the container under this notice could be made, for example, having suitable containers for fat, ensuring bins are locked, not overly full, etc. Failure to comply with the legal notice could result in an FPN being issued. If the FPN was not paid, the offender could be prosecuted. The FPN for failure to comply with the S47 notice was £110, reduced to £60 if paid within 10 days. The maximum penalty on conviction was £1,000.

Section 33 of the Environmental Protection Act 1990 prohibited the unauthorised or harmful deposit, treatment or disposal of waste (ie fly-tipping). Section 33ZA of the Act was the fixed penalty notice for contravention of Section 33. The maximum FPN for fly-tipping was £400. The minimum discounted penalty that could be given was £120. Failure to pay the FPN could result in prosecution. The maximum penalty on conviction for fly-tipping was an unlimited fine and a custodial sentence. An officer could choose to proceed immediately to prosecution if they considered the offence to be aggravated or too serious to be dealt with by an FPN (for example, large scale fly-tipping, repeat offenders, offenders who refused to provide details of any other parties involved).

Section 34 of the Act imposed a duty of care on anyone who produced, imported, kept, stored, transported, treated or disposed of waste and that reasonable steps must be taken to ensure it was managed properly. The Section 34 notice was used to require businesses to provide documents relating to the transfer of controlled waste (they must be able to demonstrate that they were complying with their duty of care). A person failing to comply with the notice and was not able to provide the documents within a specified time was committing an offence. An FPN of £300 could be issued in relation to this, with a reduction to £180 if paid within 10 days. Failure to pay the FPN could result in prosecution and a maximum fine of £5,000 in a Magistrates Court or an unlimited fine in Crown Court.

The Panel had previously requested a breakdown of the number of fly-tips removed, by north, south, east, west Middlesbrough, however this information was currently unavailable through the CRM Firmstep system. As a result of the Panel's request (at its meeting on 12 September 2017), the location of fly-tips had been manually recorded by operatives since 14 September. The figures, from 14 September to 30 October 2017. The figures recorded were as follows:-

- Total – 154
- North Middlesbrough – 41
- East Middlesbrough – 62
- South Middlesbrough – 15
- West Middlesbrough – 36

It was highlighted that the above figures related to the information sent to DEFRA (equating to the number of fly-tips removed) and not to the actual number of reports received as many of the reported fly-tips had been removed upon attendance at the location, or the rubbish may have been on private land.

The number of complaints/service requests submitted by members of the public in relation to fly-tipping was 2,353 for the current year (1 January – 20 October 2017) and 2,897 for the previous year (1 January – 31 December 2016).

All of the above figures were for all reported fly-tipping – whether it was on Council land, private land or was no longer in-situ upon inspection. However, only those reports that stated crews had removed items from Middlesbrough Council-owned land were reported to DEFRA.

The Panel was provided with information regarding how many reported incidents of fly-tipping had been investigated by the Enforcement Team and any subsequent actions. It was highlighted that some of the subsequent actions following investigations may have included letter drops to residents or removal of waste by Area Care, however, figures in relation to this were not available from the current system.

For the current year – 1 January 2017 to October 2017, the total number of reports investigated by the Enforcement Team was 1,149. This compared with 1,471 the previous year (1 January to 31 December 2016). During the current year, 11 of those reports were made via the One Stop system compared with 68 the previous year. 461 reports found no waste upon inspection (635 the previous year) and 126 duty of care inspections to businesses were made (29 the previous year). Eight legal notices were served (11 the previous year), four fixed penalty notices were issued (none the previous year) and two prosecutions were ongoing (no prosecutions the previous year).

A discussion ensued and the following issues were raised:-

- Clarification was sought in relation to un-adopted alleyways and it was confirmed that the Council would only adopt an alleyway that met adoptable standard, (eg have street lighting, tarmacked, etc). The Council would collect waste from the alleyway and maintain it, however, it would not be able to adopt alleys that did not meet adoption standards as the cost of bringing it up to standard would be passed on to residents.
- In general, the Service Area had been more pro-active in its approach to enforcement in alleyways and there had been an improvement. Residents had been made aware of their responsibilities for keeping the alleyways clean and periodic checks were made.
- Reference was made to shopping and industrial areas where there were sometimes issues with carrier bags gathering. The Panel was advised that the area care teams were aware of such areas and endeavoured to keep the problem at bay, however, the Panel acknowledged that everyone could play their part in preventing the problem by ensuring that residents disposed of bags/litter in the correct manner and that Ward Councillors could help to promote this.
- It was queried what progress was being made in relation to pest control in alleyways. The Panel was advised that the Pest Control Manager felt that the areas that had been treated were improving and, in addition, the Enforcement Team carried out weekly walk-about and were prioritising those alleys in greatest need of pest treatments. It was acknowledged that this issue could potentially be considered as a one-off scrutiny topic in the future.

The Chair thanked the Officers for attending and for the information provided.

AGREED as follows:-

1. That the information provided be noted and considered in the context of the Panel's current review.

2. That information in relation to the latest fly-tipping statistics for England 2016-17 produced by DEFRA and the figures submitted to DEFRA by the neighbouring local authorities be provided to a future meeting.
3. That a representative from a neighbouring local authority be invited to the Panel's next meeting to provide information in relation to the services provided by their Council in terms of fly-tipping and enforcement.

OVERVIEW AND SCRUTINY BOARD UPDATE

The Chair provided a verbal update to the Panel in relation to the business conducted at the Overview and Scrutiny Board meeting held on 7 November 2017, namely:-

- Tees-wide Safeguarding Adults Board (TSAB) Annual Report 2016/17.
- Attendance of Director of Public Health and Public Protection.
- Final Report of Social Care and Adult Services Scrutiny Panel – Aster Care (formerly Belle Vue Care Home).
- Scrutiny Panels' Progress Report (verbal updates from Panel Chairs).

AGREED that the information provided be noted.

DATE OF NEXT MEETING

The next meeting of the Environment Scrutiny Panel was scheduled to take place on Thursday, 14 December 2017 at 1.30pm.