



SCRUTINY COMMITTEE REPORT

Date Written	24 th August 2018
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Service Area	Neighbourhood Services
Committee Date	10 th September 2018

To: Chair, Ladies and Gentlemen

ENVIRONMENTAL ENFORCEMENT UPDATE

1.0 SUMMARY OF THE REPORT

- 1.1 A report to update committee members on the current position of the Environmental Cleansing and Enforcement Team in regards to enforcement.

2.0 RECOMMENDATION(S)

- 2.1 That the scrutiny committee notes the content of this report.

3.0 INTRODUCTION AND BACKGROUND

- 3.1 Fly tipping is a Corporate Priority and has been high on the agenda since February 2016. Fly tipping is not unique to Merthyr Tydfil; it is a national problem and fly tipping incidents are increasing. According to Keep Britain Tidy 2016/17 Local Authorities in the UK recorded in excess of one million incidents of fly tipping costing over £50 million of tax payer's money to clear off Council owned land.

4.0 WHERE WE WERE

- 4.1 In Merthyr Tydfil, outcomes were **adequate** for fly tipping as the performance scores for fly tipping clearance were slightly better than the all Wales average, as shown in the table below.

Table 1: Percentage of fly tipping incidents cleared within 5 working days in 2012/13

Key Indicators	March 2013 Merthyr Tydfil	March 2013 Wales
Fly tipping incidents cleared within 5 working days	92.3 %	92.2 %

- 4.2 The Fly-tipping functionality formed a part of the Waste Services Department in 2012/13 and resources included two members of staff (3.5 days per week) and the use of one vehicle (this also included all receptacle deliveries, private works).
- 4.3 All fly-tipping evidence was gathered by Waste Services and passed to Environmental Health Department for further action. All prosecutions were undertaken by Environmental Health.
- 4.4 Fly tipping is not unique to Merthyr Tydfil; it is a national problem and fly tipping incidents are increasing. Tackling fly tipping within Merthyr Tydfil has been high on the agenda over the last two years and links into the corporate priority 'A Sustainable Environment'.
- 4.5 Local Authorities (LA's) are responsible for clearing fly-tipping on public land. LA's may also investigate incidents on private land but there is no obligation to clear the waste.
- 4.6 Natural Resources Wales (NRW) is responsible for dealing with large scale illegal dumping, including incidents involving organised crime and certain hazardous wastes. NRW will only clear up such waste where there is an immediate risk to the environment or human health.
- 4.7 Prior to February 2016, Merthyr Tydfil County Borough Council did not employ a designated enforcement team that solely concentrated on littering and dog fouling offences.

5.0 WHERE WE ARE NOW

Fly tipping Complaints

- 5.1 In 2016/17 and 2017/18 MTCBC achieved 100% for incidents of fly tipped waste cleared off Council owned land within 5 working days. According to All Wales data, MTCBC have been the top performing authority for fly tipped waste removed off council owned land within 5 working days since 2016/17.
- 5.2 In April 2018 the performance indicator for fly tipping clearance changed from the percentage of incidents cleared from council owned land within 5 working days to the average number of days taken to clear fly tipped waste from council owned land. In April 2018 we received 299 reports of fly tipping in which we cleared the waste on council owned land on average of 2.01 days.
- 5.3 In May 2018 we received 328 reports of fly tipping. The waste was removed from Council owned land on average of 2 days.
- 5.4 In June 2018 reports of fly tipping reduced to 270 complaints. The waste was removed from Council owned land on an average of 1.6 days.

- 5.5 July 2018 saw reported complaints fall to 238. The average number of days taken to clear the waste was 1.7 days.

Fly Tipping Fixed Penalty Notices (FPN)

- 5.6 On 25th October 2017, the Unauthorised Deposit of Waste (Fixed Penalties) (Wales) Regulations came into force to help Local Authorities to tackle fly tipping across Wales by way of serving FPNs for small scale fly tipping offences.
- 5.7 A report was put before Full Council on 7th March 2018 asking committee members to approve the report giving authorised officers the powers to serve £400 FPNs for first time, small scale fly tipping offences. This report was approved and FPNs were served from April 1st 2018.
- 5.8 Since April 1st 2018, 23 FPNs for small scale fly tipping have been served, in which six have been paid. Six FPNs have been revoked for various reasons. One reason is, if information is found for two people living in the same address but one person takes full responsibility for the disposal of the waste, then the other FPN is revoked and only one person is expected to pay. Six FPNs are still within the initial payment period. Five FPNs have been progressed to a formal investigation.

Section 34 Notices

- 5.9 A section 34 Notice is a legal notice served on a business giving them 7 days to furnish documentation proving how they dispose of their commercial waste. This section comes under the Environmental Protection Act 1990.
- 5.10 Should a business fail to respond, or give insufficient documentation, a £300 FPN is served which gives the business 14 days to discharge liability.
- 5.11 If no payment is received the business is served with a final demand notice giving a further 7 days to discharge liability. If there is no response, the file is passed to the Legal Department for consideration for prosecution.
- 5.12 Should the business furnish adequate documentation, no further action is taken.
- 5.13 We aim to serve at least 5 notices per week as this allows us to establish how businesses are disposing of their commercial waste. This exercise was implemented due to the nature of the waste found during fly tipping investigations.

Prosecutions

- 5.14 Since the implementation of the Environmental Cleansing and Enforcement Team, there have been 11 successful prosecutions for fly tipping and s.34 offences. There are currently 6 files with the legal department awaiting initial court hearings. A further 4 cases are with legal and have Court dates. Sixteen cases have been through the formal interview stage and require the case file to be written up and four s.34 case file is due to be written up.

Promotion and Awareness

- 5.15 We are working closely with Corporate Communications to promote the work that the Enforcement Team are undertaking including, before & after pictures, fly tipping videos, publicising enforcement action taken etc.
- 5.16 We are also working on new initiatives to raise awareness on the effects of fly tipping on the borough and the work required to clear and investigate. We have worked with Corporate Communications to create a newsletter to post online and on all social media streams to keep the public up to date.
- 5.17 Other ways in which awareness is raised is by adding warning signs on litter bins to discourage residents from depositing household waste in public litter bins. Letter drops are also carried out in problematic areas and where cleansing operations have been undertaken.
- 5.18 Officers within the Environmental Cleansing and Enforcement Team have built a better working relationship with the local Constabulary which in-turn means more patrols have been undertaken in partnership around the borough. These patrols have meant that officers have been able to undertake a stop and search with other officers in the council and the Police. As well this we have also undertaken a stop and search in partnership with Caerphilly CBC, SW Police, Gwent Police, Commoners Association and NRW.

6.0 WHERE WE WANT TO BE

- 6.1 We would like to significantly reduce the instances of fly tipping within the borough. In order to achieve this we would like to remove and investigate all instances of fly tipping on council owned land within a timely manner. Where necessary we also aim to prosecute to help reduce the incidents of fly tipping.
- 6.2 We want to carry out more surveillance to gain intelligence and evidence on fly tippers. The Environmental Cleansing and Enforcement Team have a number of covert cameras available to use for surveillance purposes. Due to the capacity within the department, there is a lack of surveillance being carried out. More surveillance will have a positive effect on the department as it will allow for more prosecutions, which with publicity, will deter potential offenders from fly tipping in the area.
- 6.3 We would like all businesses within the borough to adhere to their duty of care under s.34 of the Environmental Protection Act (1990). This can be achieved by establishing how businesses dispose of their waste and ensuring it is done in a safe and legal manner.

7.0 WHAT WE NEED TO DO NEXT

- 7.1 Prioritise hot spot areas and continue to send letter drops to problematic areas advising of the issues in the area and ask for information.
- 7.2 Continue to serve FPNs for small scale fly tipping.
- 7.3 Continue to establish how businesses are disposing of their commercial waste.
- 7.4 Continue with Comms updates.
- 7.5 Add livery to all cleansing vehicles to raise awareness of fly tipping and FPNs.

8.0 CONTRIBUTION TO WELLBEING OBJECTIVES

- 8.1 Environmental enforcement contributes to the Council's environmental wellbeing objective; communities protect, enhance and promote our environment and countryside.

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BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
List the Background documents which have been relied on in preparing the report. E.g. previous minutes of relevant committees		
Does the report contain any issue that may impact the Council's Constitution?		