

Overview and Scrutiny Committee on 24 July 2006

Report Title: **Fly- tipping Scrutiny Review**

Report of: **Chair of Fly-tipping Scrutiny Review**

Wards(s) affected: **ALL**

1. Purpose

To provide members with information about fly-tipping so that they can determine if this is an area they wish to review

2. Recommendations

2.1 That the Committee consider whether they wish to carry out a detailed review into fly-tipping and if so determine the length and scope of the review and in particular determine those issues they wish to concentrate on, e.g., prevention ,the action taken to remove fly- tipping or enforcement.

Report Authorised by:

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3. Executive Summary

This report sets out information about fly-tipping, its causes, research into who fly tips and why, the scale of the problem in Haringey and the action taken.
It also provides information about what agencies are doing about this problem and suggests potential areas for Scrutiny.

4. Reasons for any change in policy or for new policy development (if applicable)

4.1 N/A

5. Local Government (Access to Information) Act 1985

5.1 Previous reports and decisions

6. Finance, Legal and Equalities Comments

6.2 The legal issues have been considered in the process of preparing this report and are adequately summarised herein.

7. Background

7.1 Initially it was intended to commence this review last year and a review panel to be chaired by Councillor Winskill was set up for this purpose. As a result of initial meetings involving Councillor Winskill and officers from Scrutiny and Environmental Services, the Committee agreed that, as there was insufficient time to undertake this review before the election, it should be deferred until this year.

8. Fly-tipping

8.1 Fly-tipping is the illegal deposit of any waste onto land, i.e. waste dumped or tipped without a licence. It can be large items of rubbish or just a black sack dumped on the road side. It is a criminal offence as well as being anti-social. At the very least fly-tipping can be an unsightly nuisance but even worse:

- it can cause serious environmental pollution and depending on its nature damage underlying soil quality
- it can undermine legitimate waste management because licensed operators have to charge more
- uncontrolled waste disposal can present a hazard to the public and be harmful to human health e.g., syringes, drugs, asbestos etc.
- cleaning up fly-tipping costs taxpayers money,
- unsightly fly-tipped waste can deter investment in the area.

8.2 With regard to the last point the "broken window" theory takes this one stage further. According to this theory one broken window on an estate can result in other windows being broken and a lack of pride in the area which, as a result, becomes generally run down. Similar logic applies to fly-tipping and the House of Commons Environmental Audit Committee¹ consider that litter accumulates as part of a self generating spiral of decline which ends in increased criminal activity and fear of such activity. Improving the environment and cleaning up areas can, therefore, reduce the amount of crime associated with them.

¹ Ninth Report of the House of Commons' Select Committee on Environmental Audit (July 2004)

- 8.3 In recent years, as the problems associated with fly-tipping became worse and environmental pressures increased, the need to find a solution intensified, this problem has been discussed by a number of bodies and organisations. These include the EC, various government departments, the House of Commons Environmental Audit Committee; Greater London Authority, Local Government Association and local authorities.
- 8.4 The situation has not, however, been helped by European and UK strategies on sustainable waste management seeking to decrease the amount of waste going to land-fill by tightening regulations on waste and increasing the cost of disposal thereby encouraging fly-tipping. For instance, following the introduction of the landfill tax in 1996 it now costs more money to dispose of waste and it is likely that this cost will rise as local authorities are able to landfill less and less waste under the EU Landfill Directive. With this cost increase has come an increase in fly-tipping as an attempt to avoid payment. In this connection the Federation of Small Businesses has warned that the hazardous waste regulations which came into force in July 2005, and which defined many “every day” items as hazardous, could lead to more fly-tipping.
- 8.5 However, in line with European policy it is the Government’s aim to discourage the generation of waste by implementing a producer pay principle whereby the producer of waste must pay for the collection and disposal of it. Clearly the problems connected with fly-tipping have to be looked at in the wider context of waste management generally if solutions are to be found.
- 8.6 Because of the number of agencies involved in resolving fly-tipping problems this area is particularly suitable for a cross-cutting scrutiny review. Once the Committee decide which areas they wish to scrutinise and the way in which they wish to do this, the draft terms of reference attached as Appendix A can be made more specific.

9. The Extent of the Problem

- 9.1 The Environment Agency estimates that nationally:
- Between June and November 2004, 444,536 fly-tipping incidents were reported. The top five most commonly dumped items were household waste, white goods, construction waste, garden waste and waste from businesses.
 - In the last 6 months of 2004 local authorities up and down the country spent around £24m clearing fly-tipping.
 - The most commonly fly-tipped items are black bags of household rubbish left at the side of a main road.

- Almost 28,000 fridges and washing machines were fly-tipped between July and September 2004.

9.2 Set out at Appendix B is the results of research into who fly tips, where and why and the organisations involved. This information might be of use in determining what areas to scrutinise.

10. The Approach Nationally

10.1 The Department for Environment, Food and Rural Affairs (Defra) has stated that it is committed to "tackling the illegal disposal of waste" as "this anti-social behaviour is adversely affecting the amenity of our local environments and reducing civic pride". In pursuance of this objective the Department consulted widely on a comprehensive fly-tipping strategy aimed at enhancing and improving the powers available to local authorities and the Environment Agency. The responses received were then used to help frame new legislation.

10.2 Some of the increased income from landfill tax receipts has been returned to businesses. £2 Million of this money has also been allocated in 2005/6 to the Environment Agency to help them tackle fly-tipping and "help level the playing field for legitimate business". This work will include making it easier for waste producers to check if legitimate carriers are taking their waste.

10.3 Defra has also commissioned the Jill Dando Institute of Crime Science at University College, to carry out further research into the causes and incentives for fly-tipping. It is anticipated that this research will lead to the production of a good practice guide for local authorities which will be circulated in 2006. Defra is also carrying out a comprehensive review of the waste duty of care regime and are considering amendments to the waste carrier registration system.

10.4 In the meantime the Environment Agency is having a "zero tolerance" crack down to tackle illegal dumping and fly-tipping, initially in three areas. They are also making the database of legal waste carriers available on line to help make sure waste collection suppliers are bona fide.

10.5 The Environment Agency and the Local Government Association have agreed a protocol for dealing with fly-tipping². Its aim is to define who is responsible for what, encourage partnership working and reinforce the message that fly-tipping is a crime. It also envisages that, "local authorities that have a problem with fly-tipping develop a planned approach to tackle the problem using the full range of investigative, enforcement and clean up powers available to them and in appropriate

² Working Better Together Protocol 6 "Fly-tipping and Illegal Waste Activities –jointly agreed January 2005

partnership with the Agency and others, such as the Police and landowners”.

- 10.6 In summary the protocol envisages that local authorities “will move towards carrying out more preventive work and the investigation and enforcement of smaller-scale incidents of fly- tipping”. The Environment Agency will generally investigate and take enforcement action against large-scale fly- tipping, organised criminal involvement in waste crime and the dumping of hazardous waste.
- 10.7 Whilst a national agreement has been agreed, a pan London one which allows for local agreement is still being negotiated. It is envisaged that local agreements will then be finalised. However, although there is not much evidence of large scale, criminally organised fly- tipping in the Borough, the Environment Agency already tend to deal with such incidences if they occur.
- 10.8 The Agency has also developing a web- based fly-tipping database, known as “flycapture” that will help tackle fly-tipping. It has been operational since April 2004 and is a strategic tool that will inform policy and strategy decisions as well as enabling resources to be concentrated on hot spots. Flycapture also includes the ability to enter registration details of vehicles involved in fly-tipping to determine whether they have been involved in similar crimes elsewhere.

11. The Legal Position

- 11.1 Under Article 4 of the EC Waste Framework Directive countries are required to take necessary measures to prevent the dumping of uncontrolled waste.
- 11.2 Current legislation in this country makes it an offence:
- To deposit controlled waste or knowingly cause or permit controlled waste to be deposited without a waste management licence.
 - To treat, keep or dispose of controlled waste or knowingly cause controlled waste to be kept, treated or disposed of except under a waste management licence.
 - To treat, keep or dispose of controlled waste in a manner likely to cause damage to the environment or harm to human health.
- 11.3` The police or a local authority officer has the power to stop and search a vehicle they believe is being used to unlawfully transport or deposit waste and if a carrier cannot produce a certificate for the transportation of that waste they are committing an offence which can be discharged by a £300 fixed penalty notice. An authorised officer can also require any occupant of a vehicle to give their name and address and failure to do so could result in a fine of up to £500.

- 11.4 It is an offence to make a harmful deposit of rubbish. A Magistrates Court can impose a maximum fine of £50,000 or up to six months imprisonment. However, a Crown Court can impose an unlimited fine and up to a five year prison sentence. A Court can also require an offender to pay for clean up and investigation costs and require them to give up possession of any vehicles used.
- 11.5 An authorised officer can also issue a fixed penalty notice of an amount set by a local authority (£100 when no amount is set) to someone who has committed an offence by leaving rubbish out on the street.
- 11.6 The Environment Agency or local authority also has the power to serve notice on the owner or occupier of land requiring them to clear waste from it and the power to remove the waste themselves and recover the cost from the occupier or owner.
- 11.7 Local authorities may also make Gating Orders to restrict public access to a public highway or footpath to prevent crime and anti-social behaviour, including fly-tipping.

12. The Situation in Haringey

- 12.1 Set out below are the views of the Director of Environment on a number of fly- tipping issues in Haringey:

- **What material is dumped and in what quantities (e.g. white goods; including fridges and hazardous waste)**

Fly- tipped waste in Haringey ranges from single bags of household or commercial waste through to whole loads of waste tipped from the back of vans and lorries. The type of waste fly- tipped ranges from household waste consisting of general rubbish, to building and house clearance waste consisting of rubble, white goods and furniture. The Council has also cleared fly- tipped asbestos using specialist licensed contractors.

- **Where is it dumped?**

Fly-tipping of large loads tends to happen in locations that are not overlooked where perpetrators are less likely to be seen in the act. Fly-tipping of furniture, white goods and black bags tends to happen in residential roads, Fly- tipping of commercial waste tends to happen on main roads or in the back alleyways behind businesses.

- **Are there any places where it consistently reoccurs?**

There are a number of locations recognised as being fly- tipping 'hotspots' where there is a history of waste being dumped and these can be targeted for direct remedial action. However, a significant

number of fly tips are at random and unpredictable locations and more imaginative and indirect actions would be required to stop fly- tipping occurring there.

Geographically, evidence suggests that the east of the Borough suffers more than the west of the Borough from fly- tipping. For instance, in May 2006, information available suggests that two thirds of the fly- tipping that happened took place in N17 and N15, whereas these two postcodes only account for just over one third of the roads in the borough.

- **Is there anything about the dump sites which facilitates fly-tipping?**

Locations that are not overlooked are vulnerable to fly- tipping. Unfenced land is also vulnerable. Some dumping 'hotspots' are cleared on a regular basis by the Council's fly tipping removal services. However, the swift removal of fly tips at 'hotspots' can give the impression that it is acceptable to fly tip because it will be cleared regularly, thereby encouraging further fly- tipping.

- **Are there any timing or seasonal patterns?**

Historical fly tip removal and resident fly tip report information suggests that there is increased dumping in the spring. However, this link is quite weak.

- **What do we know about the offenders?**

Fly- tipping on residential roads tends to be from residents. On main roads and in the alleyways behind, fly- tipping tends to be from shops and businesses and also from flats above shops.

- **Does organised fly-tipping occur?**

Officers do not believe that there is organised fly- tipping in the Borough. However, it is believed that there are a small number of prolific fly-tippers who between them may be responsible for a significant proportion of the fly-tipping from vans and lorries.

- **What do we know about the wastes' origins?**

It is believed that small scale fly- tipping tends to originate from within Haringey. A proportion of larger scale fly- tipping using vans and lorries may come from outside the Borough but this is difficult to quantify as, very often, fly tips do not contain evidence of origin. Anecdotal evidence from enforcement work with the police where vehicles carrying waste are stopped at road blocks, suggests that half of those vehicles found carrying waste without a waste carrier licence come from outside the Borough. However, it does not necessarily follow that

waste being carried without a waste carrier licence would always be fly-tipped rather than taken to a legitimate disposal point.

- **Is the problem constant, getting bigger or smaller?**

The number of fly tips collected and recorded by Haringey Accord has been fairly constant at between 4,500 to 5,800 per month during the last year.

- **Arrangements for removing rubbish dumped**

The Council has arrangements for removing fly tips from public highways and housing land through the integrated waste management and transport contract with Haringey Accord. The price paid for the service is set and does not vary according to the number of fly tips removed.

For hazardous or special waste, separate collection arrangements are made according to the type, quantity and location where the fly-tipping has occurred.

Enforcement action can be taken against landowners who have fly-tipped waste on their land, requiring them to remove it.

Enforcement action cannot be taken where waste is fly-tipped on unregistered land. The Council has funding for the clearance of such sites. This funding has been used not only to clear sites but also to prevent fly-tipping by fencing, gating and bollarding. This service has been carried out at some sites in partnership with the Probation Service where offenders with unpaid community service orders help to clear the sites with back up from the Waste Management Service.

- **Enforcement action taken including number of successful prosecutions and sentences given.**

There have been a number of successful prosecutions for fly-tipping. However, using the "Enforcement Concordat", the emphasis is generally upon advice and education in the first instance followed by fixed penalty notices. Under the Cleaner Neighbourhoods Environment Act the Council can use fixed penalties to deal with a wider range of offences and they are a faster and more convenient tool for enforcement, and achieving the required outcomes, than prosecutions. There is, however, value in taking cases to court as this provides the opportunity for the Council to publicise successful prosecutions as part of the range of indirect actions that can reduce fly-tipping.

13. Action taken in Haringey to prevent Fly-tipping

- 13.1 It is widely recognised that a council waste management arrangement will have an impact on fly-tipping; i.e. charges or lack of civic amenity

sites encourage incidents of fly-tipping. Set out below, therefore, is a summary of Haringey's waste management arrangements

- **Trade waste arrangements**

The trade waste function is carried out on behalf of the Council by Haringey Accord. The Council has encouraged Haringey Accord to provide a range of competitively priced collection services that suit businesses in Haringey, especially small businesses that are unlikely to be serviced by private sector waste collectors due to low profit margins. The availability of reasonably priced services makes it more likely that businesses will have proper waste collection arrangements rather than fly tip their waste.

Timed collections on a number of roads in the Borough have been introduced including Green Lanes, Bruce Grove, Turnpike Lane and High Road N17. Waste containers are not allowed on the public highway. This has led to improvements in cleanliness as waste bins on streets tend to attract fly-tipping.

- **Arrangements for storage and protection of rubbish from flats and flats above shops**

It is usually the case that flats above shops do not have any external off-street space to store waste and so household waste from these premises tends to be left outside on the public highway on a daily basis. Even on Zone 1 roads where clearance of waste happens once or twice a day this can be a problem, especially where waste is left outside just after a collection. The Council has begun to address this through the timed waste collection service as residents, and businesses, on these roads are allocated specific times when waste can be left outside. Failure to comply with these times may lead to enforcement action.

Some flats above shops are only entered through rear alleyways and this can be a problem because the Zone 1 clearance arrangements do not apply. The waste management contract allows for 3 times per week collection from flats above shops but this is not always sufficient to ensure these areas remain acceptably clean and tidy.

- **Collection service and charges for large items**

Residents can ring Haringey Accord and arrange for up to 6 bulky items to be collected for £15.

Last year the Council introduced a free bulky items collection service for white goods, TVs, PC monitors, gas cylinders, car batteries and car tyres. This service was introduced in response to the new Waste Electronic and Electrical Equipment (WEEE) Regulations which

required the separation of hazardous waste from the main waste stream for collection and disposal purposes.

The Council provides households that have front gardens with a once per year free community clear up service for up to 15 large items. Qualifying householders are notified by leaflet drop one week before the service comes to their street giving them advance notice and time to put out their unwanted items.

For households without front gardens the Council also provides a community skip service where bulky items can be brought directly from households and placed into the skip. This is also notified in advance by leaflet and is very carefully monitored to avoid abuse by unauthorised persons.

- **Use and location of civic amenity sites**

The Council now has two re-use and recycling centres. The Park View Road site has been up and running for many years and a second re-use and recycling centre was opened in Hornsey in March 2006. The Park View Road site being in the far east of the Borough was not very accessible for residents in the west of the Borough. The new site redresses this imbalance. The extent to which decisions taken by neighbouring authorities on their waste management schemes, e.g. increasing the charges for collections of large items, may have an impact on fly-tipping in this Borough especially if there is a suitable site near the Borough boundary where rubbish can be fly-tipped is not known. The Council also takes or could take the following action to prevent or deter fly-tipping:

- Through the Better Haringey campaign, publicity can be given to problems caused by fly-tipping and to the outcomes from successful prosecutions so as to act as a deterrent for others.
- Education initiatives. Again, through the Better Haringey campaign, the Council can raise awareness of the availability of free collection services and how to access the charged collection services.
- Problem with high population turnover. There is a problem with fly-tipping taking place as transient residents move in and out of the borough. The rise of property letting and houses in multiple occupation have contributed to fly-tipping problems and quite often this fly-tipping takes place in front gardens rather than onto the public highway. This could potentially be targeted through an education campaign and through closer working links with registered social landlords.
- Action taken to make land where fly-tipping occurs more secure. The Council ran a successful alley gating project in recent years to prevent fly-tipping and other criminal behaviour in alleyways and rear pathways. Enforcement notices can also be served on landowners

which require them not only to clear land that has been fly- tipped but also to secure it from further fly- tipping. Under the unregistered land clearance project, a number of sites have been treated with measures to prevent further fly- tipping in future. This work will be continuing this year.

- Use of CCTV. The enforcement service has been investigating the use of CCTV to deter fly- tipping and to capture evidence to be used against fly-tippers. This work is in its early stages but some good evidence recently captured on CCTV in South Tottenham may provide the Council with an opportunity to take a test case forward. The use of CCTV is the subject of a separate review.

14. Experience Elsewhere

- 14.1 Encams (formerly the Keep Britain Tidy Group) was commissioned by both Barcelona and Madrid City Councils to undertake technical studies to identify the causes of and solutions to the unsatisfactory standards present in some parts of the two cities. In both case Encams made a number of far reaching recommendations which were fully implemented and have had a marked effect on environmental standards.
- 14.2 **Walsall Borough Council** has developed a web site facility for members of the public to report fly-tipping incidents and request the clearance of dumped materials. This Council also has special liveried vehicles (litter hit squad) to collect fly-tipping materials and believes that the conspicuous presence of these vehicles raises the profile of the problem.
- 14.3 **Liverpool**, who suffer from fly-tipping of building and household waste in alleys and service roads to the rear of terraced properties has erected full size gates at the entrance to alleys and provides essential users with keys. They claim that this scheme has had measurable success in the areas where it has been adopted.
- 14.4 **Buckinghamshire** were concerned that each year the recorded level of fly-tipping increased by approximately 20%. To counter this they launched a countryside partnership campaign involving the County Council, 4 District Councils, the Environmental Agency and the Thames Valley Police. They claim that early indications are encouraging and that so far 18 people have been prosecuted and the number of fly-tipping incidents has fallen by 23% compared to 2003 levels.

15. Areas which could be scrutinised.

- 15.1 Members could decide if they wished to scrutinise the problems associated with one particular type of waste, construction waste or to look at one particular aspect of the problem, e.g. preventive measures including education, enforcement or the action taken to clear up fly-tipping where it occurs. In view of the complexity of this subject members

might wish to do a small review into specific aspects of fly-tipping and to recommend that consideration be given to carrying out a full scrutiny review next year.

- 15.2 Specific issues which might be looked at are set in the scoping document attached as Appendix A.