

21 September 2010		ITEM 6
Cleaner, Greener and Safer Overview and Scrutiny Committee		
AN EFFECTIVE APPROACH TO COMBATING FLY-TIPPING IN THURROCK		
Wards and communities affected: All	Key Decision: Yes	
Accountable Head of Service: Lucy Magill, Head of Public Protection		
Accountable Director: Bill Newman, Corporate Director of Sustainable Communities		
This report is Public		
Purpose of Report:		
<ul style="list-style-type: none"> To outline the issues in regard to responding to fly-tipping and to seek endorsement for this approach to dealing with it. To approve ways to raise awareness of this approach. 		

Comment [sj]: PLEASE CLICK THIS BOX ONCE and enter the date of the meeting (in font 16, not capitals)

Comment [sj]: Please leave this for completion by Democratic Services

Comment [sj]: PLEASE CLICK THIS BOX ONCE and enter the name of the Committee you are reporting to (in font 16, not capitals)

Comment [sj]: PLEASE CLICK THIS BOX ONCE and enter the title of your report (in font 16 and in capitals) - Cabinet

Comment [sj]: Please enter details of any Wards and Communities affected by the report. If this section is not

Comment [sj]: Yes/No/Not Applicable – a 'Key Decision' is generally one affecting more than 2 wards or above 500,000

Comment [sj]: Please state the Head of Service's name and job title

Comment [sj]: Please state Director's name and job title

Comment [sj]: State whether your report is Public or Exempt. If Exempt (i.e. not to be given to the public or discussed in

Comment [sj]: Briefly set out the purpose of your report

Comment [sj]: Please provide a summary of the key points in your report

Comment [sj]: The recommendations should be set out in bold in the form of the decision that the decision

Comment [sj]: You should briefly explain why the report is on the agenda - See para. 5.3 and 5.4 of the reporting guidelines

EXECUTIVE SUMMARY

Fly-tipping continues to be a major concern for residents. In order to ensure that the best service is provided to residents the Council's response to it has been reviewed. This report sets out the outcome of that review.

1. RECOMMENDATIONS:

- 1.1 That Overview and Scrutiny Committee endorse this approach to dealing with fly-tipping.
- 1.2 That Overview and Scrutiny Committee approve the methods outlined in this Report to raise awareness of this approach.

2. INTRODUCTION AND BACKGROUND:

- 2.1 Until the end of March 2008, a "clear-all" approach to fly-tips was in place in Thurrock so that all were cleared by Council staff regardless of location and little attempt was made to trace or take proceedings against those responsible for it.

- 2.2 Whilst superficially attractive this approach was found, as elsewhere in the country, to send the wrong message to residents. Instead of disposing of rubbish unsuitable for the normal household waste collection correctly by taking it to one of the borough municipal sites, some left their rubbish in back alleys or on private land. These locations were quickly seen as semi-official gathering points and which soon became hot-spots for fly-tipping.
- 2.3 Clearing all fly-tips also led to substantial budgetary overspends and was neither sustainable nor efficient. Indeed, the Environment Agency, which measures local authorities' performance annually, based on the number of fly-tips dealt with compared with enforcement activity, graded Thurrock Council's service as "not effective", placing it in the second lowest Quartile.
- 2.4 In 2007/08, the last year this approach was in place, a total of 2,408 fly-tips were dealt with. Of these 848 (35%) were in back alleys, or on private or unidentified land. Using the Environment Agency's standard clearance costs, which do not take into account staffing action and administration or other ancillary costs, the cost of clearing these 848 fly-tips, was estimated at £68,573, or just under £81 each.
- 2.5 In April 2008, a revised approach was put into place in order to ensure a balanced budget. This identified different responses for those fly-tips on Council-owned land and streets or highways repairable at public expense compared with those fly-tips on private land. The new approach is designed only to meet the statutory requirements of the Council, which are to clear fly-tips on Council-owned land and streets or highways repairable at public expense, but not fly-tips on private land including back alleys.
- 2.6 Under these new arrangements Community Protection Officers (CPOs) now inspect all fly-tips reported to the Council and refer to Street Cleansing staff only those fly-tips which under these arrangements are suitable for removal by them. The CPOs then investigate those fly-tips not covered by these arrangements and either issue Fixed Penalty Notices (FPNs) or prosecute any offences that came to light, if sufficient evidence was forthcoming. To undertake these roles, the Community Protection Unit was allocated £10,000 per annum to cover legal and investigative costs, whilst the Street Cleansing Unit was allocated a budget of £69,000 to cover the additional costs of removal, including waste disposal charges.
- 2.7 If the location is in a street or highway repairable at public expense, the CPO will notify Street Services directly, who will undertake the removal of the fly-tip, meeting any costs from within its own budgets.
- 2.8 If the fly-tip is on Council-owned land, the CPO will notify the relevant Department and pass details to Street Services for necessary action to remove the fly-tip. Street Services staff will undertake the removal of the

fly-tip and recovery of any costs incurred from the relevant Council Department.

- 2.9 If the land is neither of these, attempts will be made by the Community Protection Team to identify the occupiers or owner(s). If this can be done easily, the occupiers or owner(s) will be contacted by the relevant CPO and advised to remove the fly-tip at their own expense within 7 days.
- 2.10 If this is not done a Clearance Notice will be served, requiring the fly-tip to be removed within 28 days. If the occupiers or owner(s) still fails to do so, either a Fixed Penalty Notice (FPN) will be issued or prosecution commenced. Street Services will be advised and will undertake the removal of the fly-tip. The Community Protection Team will then contact the occupiers or owner to recover the Council's costs, using the Debtor Dept, if required.
- 2.11 If the occupiers or owner(s) cannot be traced easily a Land Registry check will be completed by the relevant CPO. If the occupiers or owner(s) can be identified at this stage then a similar process applies, namely that the occupiers or owner(s) will be contacted by the relevant CPO and advised to remove the fly-tip at their own expense within 7 days. If this is not done a Clearance Notice will be served, requiring this to be done within 28 days. If the occupiers or owner(s) still fails to do so, either a Fixed Penalty Notice (FPN) will be issued or prosecution commenced. All these actions will be undertaken by the Community Protection Team. Street Services will be advised and will undertake the removal of the fly-tip. The Community Protection Team will then contact the occupiers or owner to recover the Council's costs, using the Debtor Dept, if required.
- 2.12 If the occupiers or owner cannot be identified or the land is found to be unregistered then a Clearance Notice will be served on the land by the Community Protection Team, requiring the land to be cleared within 28 days. If this is not done, the fly-tip will be removed by Street Cleansing. Details of any costs incurred will be forwarded to the Community Protection Team and placed by them as a charge on the land by for recovery in due course, should the owner subsequently be identified.

Back Alleys

- 2.13 Back alleys are frequently used to dump fly-tips. As noted above, the Council has no statutory requirement to remove them in these circumstances and will no longer do so. Such fly-tips continue to be the source of most complaints from residents and members.
- 2.14 CPOs still attend the location when a fly-tip is reported in a back alley and undertake the response identified above to try and identify those responsible and obtain supporting evidence with a view to issuing an FPN or undertaking a prosecution.

- 2.15 Where two or more properties abut the back alley, legislation (S. 78 Public Health Act, 1936) allows the Council to require the owners of the properties to remove the fly-tip. If this is not done, then the fly-tip can be removed by Street Cleansing and the costs recovered from the owners. The legislation allows the Council to apportion costs amongst the owners as it sees fit.
- 2.16 There have been three occasions when cost recovery under this legislation was considered. However, the appropriateness of doing so was reviewed and these were discontinued. It does remain an option for consideration, nevertheless.
- 2.17 If this legislation is not used then no action will be taken by the Council in regard to clearing fly-tips from back alleys.

Hazardous Fly Tips

- 2.18 If the hazardous waste is on land clearable at public expense then contractors will be employed to remove the waste as soon as practicable.
- 2.19 Where the hazardous waste is on private land and the occupier or owner of the land is known, approaches will be made to the occupier or owner to have the hazardous waste removed as soon as practicable. Where there is no cooperation then environmental health and community protection teams will work together to use available legislation to have the waste removed as soon as practicable.
- 2.20 Where the hazardous waste is on unregistered land or the occupier or owner of the land cannot be identified. Then environmental health and community protection teams will work together to use available legislation to have the waste removed as soon as practicable.

Community Payback

- 2.21 The Probation-run Community Payback scheme offers a valuable additional resource to clear fly-tips. Whilst there are no costs for the labour, there are costs to dispose of the rubbish through collection, transport and and-fill charges, which are currently in the region of £120 per ton. If the fly-tip is one that the Council would normally be responsible for clearing these costs will be met by Street Cleansing. If the fly-tip is not one for which the Council has responsibility, then this has to be arranged by the body requesting the services of Community Payback.
- 2.22 There is a presumption within this report that rubbish not suitable for the normal household collection, particularly bulky items, will be taken to one of the borough's municipal amenities sites. However, this assumes a level of physical ability and access to private transport that is not applicable to all residents, especially the elderly and the infirm. Where

residents have bulky waste items that they are unable to take to a municipal amenities site, for whatever reason, the Council operates a bulky waste collection scheme for any such rubbish, although there is a modest cost. Currently, this is £26 for up to three bulky items and £46 for up to ten bulky items.

Progress to Date

- 2.23 During 2008/09, the total number of all fly-tips fell by 197(8.2%) compared with 2007/08, to 2,211. Of these 2,211 fly-tips, 780 (35%) were in back alleys, or on private or unidentified land and so not covered by this new approach. The cost of clearing these 780 fly-tips would have been £70,214.
- 2.24 In 2009/10, the total number of all fly-tips fell by a further 213 (9.6%) compared with 2008/09, to a total of 1,998. Of these 631 (31%) were in back alleys, or on private or unidentified land. The cost of clearing these 631 fly-tips would have been £51,239.
- 2.25 Over the two years these new arrangements have been in place the total number of fly-tips being recorded and dealt with has fallen by 17%. By adopting this new approach the Council has avoided incurring additional unbudgeted costs of £121,453 in providing a service for which it had no statutory responsibility.
- 2.26 In the first four months of 2010/11, a total of 652 fly-tips have been reported, which projects to a year-end total of 1,956, broadly in line with 2009/10 levels. In its latest annual The Environment Agency has recently reviewed Thurrock Council's arrangements and assessed them as "very effective"; the top Quartile assessment.

3. [ISSUES AND/OR OPTIONS:]

- 3.1 The move away from clearing all fly-tips has caused concern and frustration with some elected members and residents. However, the new arrangements have produced a more effective response to meet the legal requirements of the Council, as confirmed by the top quartile assessment of the Environment Agency recently. It has also brought a level of budgetary control that was not present previously.
- 3.2 Should members wish to revert to the original arrangements of a "clear-all" policy, than the additional budgetary pressure of about £65,000 per annum will have to be met by an additional budgetary allocation.
- 3.3 Members may wish to support an awareness-raising campaign to explain this approach; to bring to notice the location of the municipal sites; and the existence of the Council's collection service referred to in paragraph 2.22 above.

Comment [s]: Other headings may be appropriate. The report should outline the reasoning that leads to its recommendations and **must** include:

1. a brief summary of options considered;
2. consultation outcomes
3. a risk assessment.
4. Whether the responsible cabinet members have been consulted/contributed to the report (NB professional and political advice must be clearly distinguished)

- See para.5.5 of the report writing guidelines.

4. **CONSULTATION (including Overview and Scrutiny, if applicable)**

4.1 There has not been any formal consultation with members or the public on the contents of this paper.

Comment [j]: This should include any consultation with Ward Members and Shadow Portfolio Holders, as well as any public or statutory consultation

5. **IMPACT ON CORPORATE POLICIES, PRIORITIES, PERFORMANCE AND COMMUNITY IMPACT**

5.1 As well as meeting the Council's legal obligations, the arrangements set out in this paper also address directly the thrust of its Priorities regarding a safer, cleaner and greener environment and helping to builds pride, respect and responsibility in Thurrock's communities and its residents.

Comment [a]: Please refer to Section 5.7 of the Report Writing Guidelines

6. **IMPLICATIONS**

6.1 **Financial**

Implications verified by: **Michael Jones**
Telephone and email: **01375 652772**
mxjones@thurrock.gov.uk

As stated within the body of the report, fly tipping has caused significant budget pressures in previous years. No growth has currently been indentified within the medium term financial forecast in order to meet this pressure if it is to continue going forward under the current arrangements.

Comment [sj]: This section should always be completed – if they are dealt with fully in another part of the report, they also need a brief cross reference here. The names and job titles of the officers providing the implications should be provided in full – see Guideline 6.1 and please note Democratic Services Deadlines and ensure that officers providing implications are given 5 clear working days to work on the report. Authors can write implications but they must be signed off by the appropriate officers

6.2 **Legal**

Implications verified by: **Alison Stuart**
Telephone and email: **01375 652040**
astuart@thurrock.gov.uk

There are no further legal implications other than those contained within the report.

Comment [sj]: See Guideline 6.2

Comment [sj]: See Guideline 6.3

Comment [sj]: See Guideline 6.4

6.3 **Diversity and Equality**

The responsibility for
Implications verified by: **Samson DeAlyn**
Telephone and email: **01375 652472**
sdealyn@thurrock.gov.uk

There is a presumption within this report that rubbish not suitable for normal household collection will be taken to one of the borough's municipal sites. This assumes a level of physical ability and access to private transport that is not available to everyone. The elderly and the infirm are less likely to be able to undertake this function. To assist in such cases the Council operates a collection scheme for any such rubbish, although there is a modest cost.

6.4 **Other implications (where significant) – i.e. Section 17, Risk Assessment, Health Impact Assessment, Sustainability, IT, Environmental**

There are health considerations to be considered. These include the safety of staff dealing with these tips and also the health of the public if fly-tips are hazardous, polluting or infested with pests.

7. **CONCLUSION**

7.1 The current arrangements provide an efficient and effective response to meet the Council's legal responsibilities in regard to fly-tips. Any extension of this service to deal with other fly-tips on behalf of those who do have that responsibility themselves will attract additional unbudgeted costs.

BACKGROUND PAPERS USED IN PREPARING THIS REPORT:

- None

APPENDICES TO THIS REPORT:

- None.

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Comment [sj]: This should inform the recommendations in the report

Comment [sj]: See Guideline 8. If any Papers are to be placed in the Members room that relate to this report, you should also list them here

Comment [sj]: List the Appendices referred to in the Report

Comment [sj]: Insert the full contact details of the author of the report