

13 July 2017		ITEM: 7
Cleaner, Greener and Safer Overview and Scrutiny Committee		
Fly Tipping of Alleys – Public Health Enforcement		
Wards and communities affected: All	Key Decision: Yes	
Report of: Gavin Dennett – Environmental Health and Trading Standards Manager		
Accountable Head of Service: Andy Millard – Assistant Director of Planning and Growth		
Accountable Director: Steve Cox – Corporate Director of Environment and Place		
This report is Public		

Executive Summary

Over recent months a number of incidents of fly tipping or unauthorised rubbish disposal in alleys have been reported to the Council. This is often unsightly and in some cases can present a risk to public health.

There is no policy on the approach that should be taken by council officers to resolve these service requests.

At the meeting of 28 June 2017 the Council passed a motion calling on the Cleaner, Greener and Safer Overview and Scrutiny committee to conduct a full review of fly tipping in private alleys in order to:

- Understand the scale of the issue across the Borough
- Review the impact on residents of the Council's policy on fly tipping in private alleys
- Evaluate potential policy responses, including understanding the cost to the council of taking action and exploring new, more innovative solutions
- Make recommendations on the best approach to improving the situation

The purpose of this report is to agree the terms and timescale for this review, having regard to broader legal and financial implications.

1. Recommendation(s)

1.1 Members note the motion and agree the terms and timescale of the review.

2. Introduction and Background

- 2.1 Incidents of fly tipping or unauthorised rubbish disposal in alleys are generating requests for service from the Council.
- 2.2 The de facto position is that where alleys are in Council ownership these are cleared by the Council's Environment Service. Where the alleys or other similar spaces are not in Council ownership it is not the Council's responsibility to clear accumulations. The responsibility for clearance in these cases passes to the owner of the land. Where no owner exists the responsibility can be transferred to the occupiers of adjacent properties. The power for councils require adjacent property occupiers to clean alleys is provided by the Public Health Act 1936. The Council has no defined policy governing its application of the Public Health Act provisions or procedures for arranging clearance in such cases.

The principal options available to the Council for dealing with rubbish in alleys are:

1. The Council requires residents to collectively clear the rubbish or pay for its removal and undertake appropriate enforcement action where notices are not complied with. This option would entail action/cost on the part of residents of properties around effected alleys and could attract criticism from the residents concerned who might feel unjustifiably penalised (notably, if they were not directly responsible for the accumulations). There are also charging and legislative issues that would need to be considered as part of the review.
2. The Environment Service undertake the discretionary clearance of rubbish in alleys at the Council's expense. This option would impose costs on the Council's Environment Service as they would have to collect and dispose of fly tipped material or other rubbish reported at these locations. There is no current budget for this work.
3. No action is taken by the Council to clear rubbish from these locations and no enforcement action is taken. This option could give rise to alleys becoming a risk to public health and or unsightly to residents who use them and live in the vicinity. As such it could draw criticism of inaction by the Council.

There may be further options and the Review Panel should consider any identified and recommend them in its findings if appropriate.

- 2.3 There is no policy in place to guide officers in dealing with service requests relating to fly tipped private alleys. This gives rise to the risk of inconsistent responses to these service requests.
- 2.4 There is no budget allocation to support work on fly tips in private alleys, either for discretionary clearance or by enforcement.

- 2.5 The cost of clearance of private alleys, if this were to be arranged by the Council under the Public Health Act provisions would be made up of two main elements. The cost of the clearance and disposal via the Council's Environment Service or a contractor and the administration costs associated with the Council undertaking this work. The costs of clearance and disposal in a particular case would be divided between the liable property occupiers. The administration costs would be calculated based on the activity undertaken by officers to arrange for the clearance and recover costs. This is based on the time taken and the hourly rate of the staff involved. An illustrative example of the costs calculation is provided at appendix 1. These costs would be added to individual invoices to each liable property occupier.

3. Proposed Review Timescale

- 3.1 13 July 2017 – Committee members consider and agree the scope of the review and appoint a panel and leader from the committee to conduct the review.

July 2017 – The lead member agrees with the panel what evidence they require and what consultation is needed to inform the review's findings.

August 2017 – The panel take evidence from officers and other relevant parties to inform the findings of the review.

September 2017 – The panel undertakes consultation with relevant parties to get a range of views on the proposed policy options to be recommended.

Early October 2017 – The lead member drafts the report of the panel findings for committee and agrees the report with panel members.

12 October 2017 – Review reports back to the meeting of Cleaner, Greener and Safer Overview and Scrutiny Committee.

4. Reasons for Recommendation

- 4.1 The Council requires a policy to guide the actions of officers tasked with addressing fly tipping in alleys. This will ensure a consistent approach is taken to resolving these matters.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The review process will give councillors the opportunity to consult on policy in this area.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 To be considered as part of the review.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Management Accountant (Environment and Place)

Financial implications of the policy developed to address fly tipping in private alleys will need to be considered as part of the policy development process.

7.2 Legal

Implications verified by: **David Lawson**
Deputy Head of Legal and Deputy Monitoring Officer

The Council is under no legal obligation to remove waste on private land. The Council has the power or discretion to help even if no charge or reimbursement is sought if there is a clear and rational reason or protocol to justify that response. The Council also has powers to require landowners to clear waste from their land and has powers to enter land and clear it, and may seek reimbursement for our costs.

7.3 Diversity and Equality

Implications verified by: **Natalie Warren**
Community Development and Equalities Manager

A community impact assessment will be prepared in conjunction with any policy decision to inform the impact on groups with protected characteristics including vulnerable residents.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None identified.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Council motion.

9. Appendices to the report

- None

Report Author:

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