

REPORT TO CABINET

REPORT OF: HEAD OF CLEANSING AND CONTRACT SERVICES

REPORT NO. CCS1

DATE: 2nd August 2004

TITLE:	Fly Tipping - Prosecution
FORWARD PLAN ITEM:	N/A
DATE WHEN FIRST APPEARED IN FORWARD PLAN:	N/A
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Amendment to Officer Delegation in relation to litter and fly tipping prosecutions.

COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:	Councillor Ray Auger
CORPORATE PRIORITY:	STREET SCENE
CRIME AND DISORDER IMPLICATIONS:	YES
FREEDOM OF INFORMATION ACT IMPLICATIONS:	NEGLIGABLE
BACKGROUND PAPERS:	

1 **Recommendations**

The Cabinet is recommended to:

- a) The decision to prosecute to be delegated to the Head of Cleansing and Contract Services after consultation with Legal Services.
- b) Allow for fixed penalties/formal cautions to be issued where it is thought appropriate.

2 **Introduction**

A report to the Customer Services committee on 25/9/01 agreed that authority be given to prosecute cases of fly tipping.

The decision to prosecute was to be delegated to the Head of Environmental Health Services after consultation with Legal Services.

It was viewed by members at the time that this would provide the maximum amount of publicity for cases of this sort.

Since that time the authority has been successful in prosecuting a number of cases.

3. **Current and Future Arrangements**

Cases, which are taken to the Magistrates' Court and proven, result in the defendant receiving a fine and costs awarded to the Council. Although the Council is unable to retain the fine, it can however claim any costs of presenting the case.

In the case of a fixed penalty the District Council is able to keep the entire penalty.

Fly tipping prosecutions have until recently been a function of Environmental Services, that function has now transferred to Cleansing and Contract Services. This section has recently recruited an Enforcement Officer to investigate incidents of fly tipping and trade waste abuse.

4. **Other Options**

The Council is able to issue a caution and this can be taken into consideration for any future offences that may take place.

Fixed penalties can also be used in the same manner as for dropping litter. Some local authorities are using this for incidents involving small quantities of fly tipping.

5. **Comments of Director of Finance and Strategic Resources**

Report proposes a sensible use of resources.

6. **Comments of Corporate Manager, Democratic and Legal Services (Monitoring Officer)**

The recommendations contained within this report represent a practical use of officer time for this type of enforcement activity and takes advantage of the availability of the new fixed penalty procedure where appropriate. The recommendations also allow for the

prosecution of offences where evidence and circumstances necessitate. I have no hesitation therefore in supporting the report and its recommendations.

7. **Comments of other relevant Service Manages**

None

8. **Conclusion or Summary**

The level of resources that is required to process a case to the stage where it can be prosecuted at a Magistrates' Court is considerable. Some incidents relate to small quantities of waste being dumped.

There will still be a need for serious cases of fly tipping to be pursued through the Magistrates' Court, however certain cases could be given a formal caution plus a fixed penalty.

9. **Contact Officer**

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