

Overview & Scrutiny Briefing Note 8th January 2019

Neighbourhood Services

Shared Environmental Enforcement with Rugby Borough Council

Background

Overview and Scrutiny Committee requested a verbal update on the shared environmental enforcement service with Rugby Borough Council. The following information is a summary document so that Members can prepare ahead of the meeting.

For a number of years Warwick District Council concentrated on the removal of fly tipped items rather than enforcement. During 2017 and 2018 work was undertaken to look at Environmental enforcement options and the Council agreed to enter into a shared service with Rugby Borough Council. From November 2017 Neighbourhood Services began collecting evidence from fly tips for enforcement action. There was an initial delay to the shared service due to the necessary legal agreements not being completed until the end of March 2018 and then an internal restructure at Rugby Borough Council delaying their ability to start until July 2018.

Enforcement Process

Once evidence is found the authority can begin the first steps of the enforcement process whilst ensuring that it is acted upon reasonably. With that in mind this would result in individuals receiving a Section 46 or Section 47 Notice. This is the first step in an enforcement process that allows a potential offender to understand what they have done wrong and the means to stop it happening in the future.

Once a fly tip is reported to WDC, it is logged onto our system and a dedicated cleansing team is dispatched to examine the contents, photograph the area and cleanse the site. If any evidence such as a name and address is contained within the fly tip this is recorded and securely stored at our premises.

Under Section 46 of the Environmental Protection Act 1990, WDC can instruct householders how to present their rubbish. Section 47 allows the same instruction but to commercial properties. When evidence is obtained containing an individuals or commercial properties details my officers will issue a Section 46 or 47 Notice. If a person has more than one episode of fly-tipping, then we are in a position to pass this case on to our colleagues at Rugby Borough Council.

Rugby then assesses the case information and decides on the most appropriate action with the perpetrator, this will always include contact with them by either letter or PACE interview. Dependent upon the information and evidence we hold will depend on the next steps but generally there is a further three step process; advice and guidance, informal warning and then formal enforcement. The Rugby enforcement officers are also going door to door in areas with repeat fly tips and accumulated waste issues, this function is the most time consuming part of the enforcement process but is essential for intelligence gathering and education.

Types of Environmental Enforcement

There are many different routes which can be taken in terms of enforcement action such as, the issuing of a Fixed Penalty Notice (FPN), Community Protection Notices (CPN), and only in extreme cases with substantial evidence would a Court Prosecution be considered. The types of approach's that can be taken following the issue of a Section 46/47 Notice & accumulated waste letter are as follows:

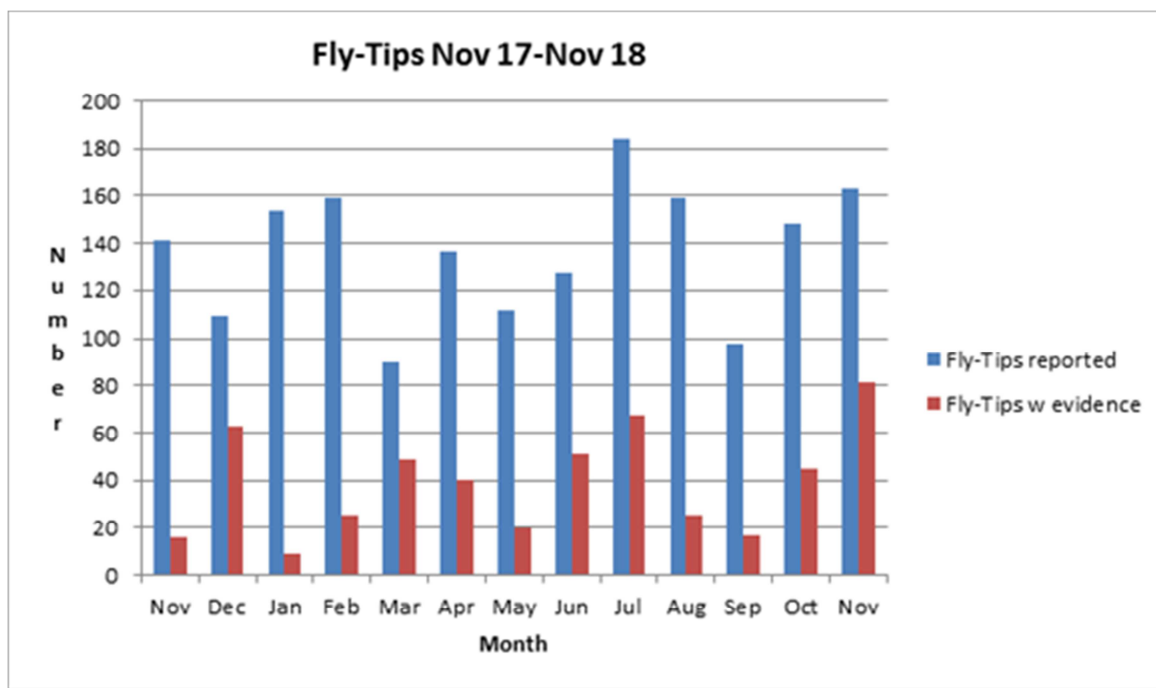
- Community Protection Warning (CPW) then a Notice (CPN) if the warning is ignored. This sets out details of the restriction/action imposed upon the individual.
- Non-compliance of a CPN will enable a FPN to be served.
- If the FPN is ignored, a prosecution file can be prepared for a court hearing.

- Alternatively the authority to arrange a clearance of the waste and recharge with an administration works in default charge.
- Alternatively a littering offence can be established and an FPN can be served, again if the FPN is not paid, court action could be started but unlikely as costs outweigh the benefits.
- We can also serve Section 108 Notices pursuant to the EPA 1995, this is issued when someone has been asked to contact the authority and no response is made, they have a duty to help with investigations. If someone failed to attend a Section 110 offence can be pursued, this is essentially a fine for not helping with our enquiries but we would not be able to pursue and prosecute for fly-tipping.

Enforcement Statistics

The following statistics are from the period November 2017 until November 2018;

Total number of fly-tips reported	1781
Total number of fly-tips with evidence obtained	508
Total number of section 46 letters sent	499
Total number of section 47 letters sent	61
Total number of accumulated waste letters sent	18
Total number of cases passed to rugby	24
Total number of cases closed after correspondence	18
Total number of cases still in progression	6
Total number of cases issued a FPN's	4
Total number of case issued a CPW	2



The data is yet to show any real trends in fly tipping incidents and we had expected to see a fall in the number of fly-tips with evidence found but thus far this has not been the case. As we have to follow a proportionate and reasonable approach to enforcement the predominant element of the process is engagement and warning letters and on that front we are moving forward in the right direction.

If or when individuals offend again we can then move the case over to Rugby BC, of the 24 cases they have received 18 have been concluded through correspondence containing advice and guidance. 2 of these have

received Community Protection Warning (CPW) letters, this contains a very clear instruction to the perpetrator and if breached they will be issued with a Community Protection Notice. The remaining 4 have received FPN's, it should be noted that these were not issued for fly tipping as the evidence was not conclusive but instead they received FPN's for littering. These have all been paid.

With each case progressed through to Rugby BC the team in Contract Services is learning something new in terms of environmental enforcement. This working relationship has already shown us a number of differing approaches that we can take with regards to fly tips and accumulated waste issues that we weren't aware of. We're working through these approaches and understanding how we can move them forward with the existing team and our officers have begun to attend enforcement training courses.

The original shared working agreement with Rugby was due to expire at the end of March 2019 but in enforcement terms this is still very early days and we need to maintain a very close working arrangement with Rugby BC to ensure we get our processes correct and take the appropriate action when needed. Due to the delay in Rugby starting in earnest we still have budget remaining for the shared enforcement and have agreed therefore to extend the agreement by a further 12 months. This should allow sufficient time for us to understand the broad range of enforcement actions available to us and build upon the experience we are gaining through the joint working.

Next Steps

To supply the overview and scrutiny committee with a further update on shared enforcement with Rugby BC in October 2019.