

## **Overview & Scrutiny Briefing Note 26<sup>th</sup> September 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 as they already had an experienced team of enforcement officers and enforcement processes. 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 letter. 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 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 letter. 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 is 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 environmental enforcement 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.

In conjunction with our colleagues at Rugby BC we initially started to use enforcement powers for tackling both fly-tips and accumulated waste issues. Over the last 12 months we have continued to build our knowledge and experience on how to tackle these two issues, but now we have begun to widen the remit with issues such as bins being stored on public highway and failure of businesses to provide proof of their waste transfer notes.

Below is a table of the offences and legislation that we have been using.

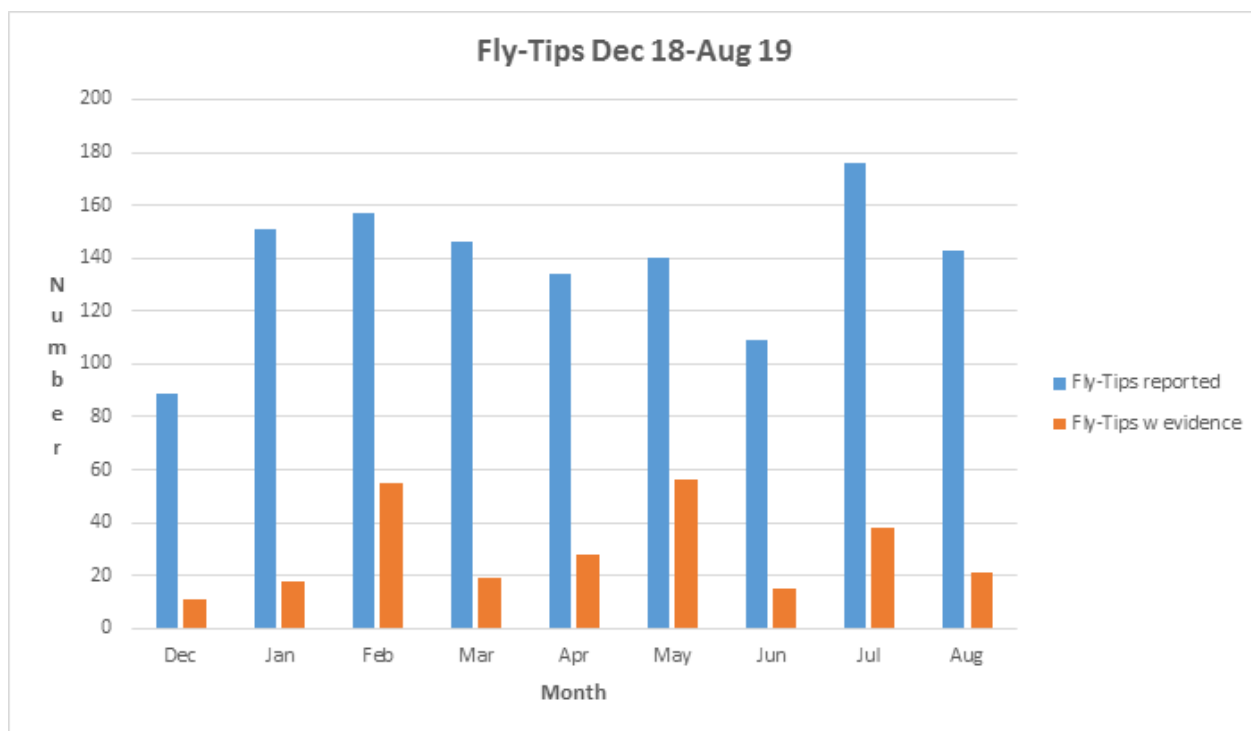
Offence	Legislation	Fixed Penalty	Maximum	Discount
Depositing Litter	Section 87/88 - Environmental Protection Act 1990	£80	£2,500	£50
Failure to produce authority (Waste Transfer Notes) Duty of Care	Section 34A(2) Environmental Protection Act 1990	£300	£5,000	None
Failure to comply with waste receptacle notice – including how waste is to be contained and placed for collection as well as storing bins on highway	Sections 46 & 47 of Environmental Protection Act 1990	£100	£1,000	£60
Accumulated Waste within front curtilage of property	Section 43 – Anti-Social Behaviour Crime and Policing Act 2014	£100 14 days to pay		£75 If paid in 10 days
Fly-Tipping	Section 33 of Environmental Protection Act 1990	£400		£300
Failure to assist with investigations regarding controlled waste	Section 108 of Environmental Protection Act 1990			

The enforcement process often crosses into more than one set of the above legislation which can make each case complicated and timely. The experience of utilising the Rugby enforcement team is invaluable when deciding on the best legislation to use and the reasons why. Our own Contract Officer team are learning these new skills but more time and further training for our officers will be needed.

## **Enforcement Statistics**

The following statistics are since enforcement commenced;

<b>Enforcement Action</b>	<b>Nov 17 - Nov 18</b>	<b>Dec 18 - Jul 19</b>
Total number of fly-tips reported	1781	1103
Total number of fly-tips with evidence obtained	508	288
Total number of section 46 notices sent	499	203
Total number of section 47 notices sent	61	61
Total number of accumulated waste letters sent	18	24
Total number of cases passed to rugby	24	64
Total number of cases closed after correspondence	18	48
Total number of cases still in progression	6	16
Total number of cases issued a FPN	4	8
Total number of cases issued a CPWN	2	12
Total number of cases issued a CPN	0	3



The data continues to show no real trends in fly tipping incidents and no significant fall in the number of fly-tips with evidence found. We continue 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.

We are utilising Rugby BC for repeat offenders and the number of follow ups needed has increased this year, with 64 cases underway with their team. They have been 48 cases concluded after subsequent correspondence for a variety of reasons. 12 Community Protection Warning (CPW) letters have been issued which contain a very clear instruction to the perpetrator, and if breached they will be issued with a Community Protection Notice. A further 8 FPN's have been issued this year, 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.

## **Next Steps**

With each case progressed through to Rugby BC the Contract Services team learn something new in terms of environmental enforcement. The working relationship continues to benefit us in terms of expanding our understanding of the number of differing approaches that we can take. There continues to be further approaches to be learned and understanding how we can adopt them within our own processes.

Due to long term sickness within the existing Contract Officer team, not all of the staff has been able to expand their skill set sufficiently. In addition, there are still 2 vacancies from a team of 6 which is unlikely to be resolved until later this year. The remaining team are scheduled to attend further enforcement training courses in November and training for PACE interviews, the taking of witness statements and preparing cases for court in the new year.

The shared working agreement with Rugby is due to expire at the end of March 2020 but given our internal issues we have agreed therefore to extend the agreement by a further 6 months. This will allow us time to resolve our staff issues and maintain the close working arrangement with Rugby BC to ensure we continue later stage enforcement processes with the appropriate action when needed.

To supply the Overview and Scrutiny Committee with a further update on shared enforcement with Rugby BC in July 2020.