

For General Release

REPORT TO:	CABINET 16th March 2015
AGENDA ITEM:	15
SUBJECT:	<i>Environmental Enforcement Policy</i>
LEAD OFFICER:	Jo Negrini, Executive Director – Place
CABINET MEMBER:	<i>Cllr Mark Watson, Cabinet Member for Safety and Justice Cllr Stuart Collins, Cabinet Member for Clean Green Croydon</i>
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT: The condition of the environment in relation to issues such as fly tipping and street cleanliness, have a negative effect on people’s quality of life. The priority for this initiative is to improve the local environment and to make Croydon a more pleasant place in which to live, work and visit and ensuring that the Council are taking action against those who break the law.	
AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS: The approach under ‘Clean and Green’ and Take Pride in Croydon supported by the ‘Eyes and Ears’ approach is an integral part of the Ambitious for Croydon commitment; to make Croydon the cleanest and greenest borough in London, improving the performance in enforcing against fly-tipping, making it easier to report environmental crime and improving environmental services.	
FINANCIAL IMPACT There is minimal financial impact as a result of adopting this policy. Existing budgets already cover the costs of enforcement, including prosecution activity. This policy does not propose any measures that are not already funded within existing budgets and, if successful, may generate additional income to the Council through increased fine revenue being received.	
KEY DECISION REFERENCE NO.: this is not a key decision	

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to

- 1.1 Approve the Councils' Environmental Enforcement Policy as detailed in appendix 1 to this report.

2. EXECUTIVE SUMMARY

- 2.1 The Clean and Green approach set out in the report of 30th June 2014 and approved by Cabinet (Min. A32/14), is designed to build a platform to make Croydon one of the cleanest and greenest boroughs in London, through the introduction of a range of strategic and operational initiatives to tackle the issues of fly-tipping, recycling, street cleanliness and environmental enforcement supported by a publicity campaign, '**Don't mess with Croydon: Take Pride**'. This report sets out activity in relation to the enforcement aspect of the campaign and seeks approval for a new Environmental Enforcement Policy that sets out how the Council will operate in the future.

3. DETAIL

- 3.1 A number of changes have taken place regarding the delivery of environmental enforcement that mean that it is necessary to capture this in a new Council policy. This includes increases in activity through the Council's Don't Mess with Croydon Campaign and changes to legislation through the Anti-Social Behaviour, Crime and Policing Act 2014. There are also significant structural changes to enforcement services in the Council through the Eyes and Ears project, which means that it is timely to put in place a new policy.
- 3.2 Croydon Council is committed to maintaining a clean and safe environment for the benefit of everyone in the borough. This commitment recognises our responsibility to keep the streets and local environment clear of litter and deal with other local environmental quality issues. The presence of dumped waste, litter, dog fouling, graffiti and other environmental crime detracts from the image of the area and can have an adverse impact on inward investment as well as being a potential health and safety issue and contributing to perceptions and fear of crime.
- 3.3 The Council strives to maintain a clean and safe environment by providing information and advice to individuals regarding the law, regulations and duties. It also, as a last resort, takes enforcement action to challenge anti-social behaviour and to ensure that those individuals and/or businesses that spoil the environment for others are made accountable for their actions.
- 3.4 This policy will help support the Council's commitment to Croydon becoming

the cleanest, greenest Borough in London and provides the framework to:

- Raise awareness of effective waste management, litter control, dog control, reduction of highway obstructions and other local environmental quality issues across the borough.
- Educate residents, businesses and visitors about their relevant duties and responsibilities in terms of effective waste management, litter control, dog control, noise offences, highway obstructions and other local environmental quality issues and what constitutes an offence.
- Undertake any enforcement action as necessary in a reasonable, equitable and proportionate manner.

3.5 All of the issues highlighted in the Environmental Enforcement Policy policy are of great importance to maintaining a clean and safe environment. We seek however, to prioritise work on certain issues in order to approach enforcement work in a structured way, targeting the most prevalent issues affecting Croydon's environment. In particular the current priority areas are:

- Fly tipping and illegal dumping of waste on public and private land;
- Domestic waste bags dumped on streets out of collection times;
- Requirements to minimise waste and maximise recycling.
- Litter in high street areas, other highways and private land;
- Commercial waste bags left on streets without proper arrangements or out of collection times;
- Irresponsible dog ownership;
- Graffiti and fly posting on public or private buildings or structures;
- Highways obstructions

3.6 **Don't Mess with Croydon** - The Council has made catching fly tippers a priority, supported by improved statistics and intelligence of hot spots, use of CCTV to catch offenders and encouraging residents to report offenders and informing residents of our successes. Recent improvements include:

- The evidence based picture of fly-tipping, through interrogation of the various data sets, is improving. Together officers are able to identify the roads most affected by fly-tipping roads and target resources accordingly. Intelligence is being gathered and shared through ongoing communication between the council and Veolia services including working together on proactive operations.
- Small localised operations take place regularly between Council teams with a number of large multi-agency enforcement led operations planned to achieve maximum effect. Council Environmental Enforcement Officers (EEOs) now work with Police on planned operations to do stops on waste carrying vehicles to check relevant waste carrying licenses are in place.
- More focus has been placed on increasing the number of prosecutions ensuring all enforcement officers have the ability to take action against those witnessed committing these offences. The Environmental Enforcement team has expanded and are taking on a larger number of cases. These cases can

be lengthy though and are not helped in experiencing considerable delays in securing court dates for such cases. Warning letters, completion of statutory notices and issuing FPNs are all successful outcomes and are now being accurately recorded and Area Enforcement Officers (AEOs) are now authorised to deal with a broader range of enforcement powers.

- Other activity includes:
 - A. 2 successful fly tipping prosecutions since Sept 2014 with a further two scheduled for Court in the next few months;
 - B. 11 prosecutions following non-payment of littering/fly tipping FPNs in March with a further 35 planned for April
 - C. 1 vehicle seizure with a further 6 applications sent to court requesting the seizure of fly tipping vehicles;
 - D. 475 Duty of care visits since May 2014 checking the waste arrangements of shops and businesses
 - E. CCTV is being deployed to hotspot locations along with early morning multi-agency operations.
 - F. An average of 45 Fixed Penalty Notices (FPN's) for environmental offences per month since June 2014 compared to an average of 20 per month for the whole of 13/14.
- New 'No Fly Tipping and prosecution' warning signs have been commissioned to support the new 'Don't Mess With Croydon' (DMWC) brand and are being used successfully in fly-tip hot spot locations supported by cameras where appropriate. New CCTV cameras are being purchased to both upgrade and increase the availability of cameras used for the prevention and detection of environmental offences.
- The My Croydon app has been updated to enable residents to report fly-tippers and litter louts by capturing offences on camera and reporting them to the council to support prosecutions and communications have started to promote the app as part of the wider campaign. All Environment staff and Veolia Environmental Services Ltd staff have been briefed and reminded on the importance of reporting fly tipping and environmental concerns throughout the borough.

3.7 **Unauthorised encampments.** During the summer of 2014, there were a number of unauthorised encampments that took place on highways, parks and open spaces in the borough. In particular there was one group, that illegally camped on three of our parks in succession leaving a substantial amount of fly-tipped material that the council was required to remove. A new approach to the encampments has been introduced whereby following a visit by an Enforcement Officers to complete the required assessment and giving the direction for them to leave the land by a given time, a notice stating that the council reserves the right to use overt and covert surveillance is given to all adults in the group. This will enable officers to carry out surveillance of the group to deter and detect fly-tipping and they are warned that those caught will be subject to rigorous enforcement action.

- 3.8 In addition, work has commenced to enforce Waste Carrier Licence inspections, where those people carrying commercial waste without a licence will also be liable to a fine of up to £300 or conviction at court. Joint operations with the police using automatic number plate reader technology is also being used to tackle those person operating across the borough in commercial vehicles to dispose of waste illegally
- 3.9 This additional activity has required changes to processes and the application of legislation that has not previously been used regularly so it is important that these are captured in a new policy so that the Council is being open and honest with its approach.
- 3.10 **Eyes and Ears** - This Croydon Challenge proposal aims to multi-skill operatives and teams to become a unified face of the Council, that is better able to respond to environmental and ASB issues, have a more effective and integrated impact on our communities and make visible improvements within the borough so it is a safer cleaner place to work and live. This approach complements the work done within Clean and Green and will be achieved through a range of actions:
- improved co-ordination and integration of enforcement services including those delivering the service and any support functions so that there is greater service consistency, reduced confusion for residents and increased service efficiency and effectiveness - the council is easier to contact and quicker to respond;
 - improved internal/external communication between services and a multi-agency agency problem solving approach;
 - delivery of flexible and tailored services that reflect and meet the needs of individual areas of the Borough, which may be different in different parts of the Borough
 - reliable, automated and integrated ICT systems
 - an ongoing campaign that builds on the “Don’t Mess with Croydon” brand and campaign that engages, galvanises and empowers the community to act as the Council’s Eyes and Ears by reporting issues and encourages and supports them to “do the right thing” and take responsibility for resolving issues, where it is appropriate and safe to do so;
 - rigorous and consistent penalising of persistent and institutional offenders;
 - front-line patrol staff being focussed on front-line activity, rather than getting involved in back office case management, which reduces their capacity for front-line patrols.
- 3.11 It is expected that following successful delivery of the Eyes and Ears project there will be an increase in enforcement and more consistent use of the various powers available to the Council. This includes increases in FPNs, prosecution activity and serving of notices to rectify problems. This is already taking place but is expected to increase further and it is therefore necessary to capture the Council’s approach in a formal policy.

- 3.12 **Anti-Social Behaviour, Crime and Policing Act 2014** - On 20 October 2014 the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) came into force. This act replaced most of the powers available to the police and local authorities to deal with anti-social behavior as well as some specific pieces of legislation used for the enforcement of environmental offences. In particular it replaced litter clearing notices, street litter clearing notices and graffiti/defacement removal notices. These have all been replaced with a new community protection notice.
- 3.13 The community protection notice (CPN) is intended to deal with particular, on-going problems or nuisances which negatively affect the community’s quality of life by targeting those responsible. The test is designed to be broad with a focus on the impact the anti-social behaviour has on victims and communities. A CPN can be issued where the Council is satisfied on reasonable grounds that the conduct of the individual, business or organisation is having a detrimental effect on the quality of life of those in the locality; is persistent or continuing in nature; and is unreasonable. With regards to environmental enforcement CPNs could be used, for example, on untidy front gardens, excessive littering outside a business or waste on private land such as alleyways. CPNs are designed to be much more flexible than the previous legislation and can be used to tackle a number of issues in one go. A breach of a CPN is a criminal offence and possible sanctions include, a fixed penalty notice (set at £80 in Croydon), or up to a level 4 fine (on conviction), paying for remedial work or forfeiture of items.

4. CONSULTATION

- 4.1 In January 2013 the Cabinet approved a draft Environmental Enforcement Policy and that a public consultation be undertaken, which would gather the necessary information for the equalities impact assessment. The consultation would then inform decisions on the development of the final Environmental Enforcement Policy. Developments highlighted in this report have necessitated a delay in finalising the policy but the consultation undertaken is still valid and has been used to inform the final version.
- 4.2 As part of the work on the Environmental Enforcement Policy, public consultation was carried out between 24 September and 23 December 2013. This took the form of an online questionnaire and a face to face survey. 331 people took part in the survey with feedback summarised as follows:
- The responses received from the survey show there is significant support for taking necessary action against environmental offences including those who drop litter in the street, by issuing Fixed Penalty Notices (FPNs).
 - The main themes that people felt should also receive fines were spitting, fly-tipping, chewing gum spat out on streets and urination on streets.
 - Further comments requested clear ways to mitigate offences, such as the need for more bins and improved signage. Some comments also highlighted the importance of fines being issued fairly.
 - Findings on equalities data showed that where equalities or disability data was provided by respondents to the consultation, these responses indicated an overwhelming agreement with the need to take enforcement action against those who commit environmental crimes.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

There are minimal financial consequences as a result of this report. Capital budgets have been secured to pay for new equipment, signage and publicity. Existing revenue budgets already cover the costs of enforcement, including prosecution activity. This policy does not propose any measures that are not already funded within existing budgets and, if successful, may generate additional income to the Council through increased fine revenue being received.

2 The effect of the decision

The effect of the decision is to approve the Council's approach to environmental enforcement. This sets out the legislation and processes the Council is using so that it is clear and transparent regarding what people can expect.

3 Risks

It is expected that through the Eyes and Ears project there will be increases in enforcement. This is likely to lead to increases in income from FPNs revenue and in prosecution activity, which will incur legal costs. However, successful prosecutions will always seek to recoup costs of prosecution although these may not be recovered for several years.

4 Options

To approve the policy or to choose not to adopt it. However, it is important the Council are transparent in its processes, particularly given that Environmental Enforcement is such a key priority.

5 Future savings/efficiencies

As part of the Eyes and Ears project the provision of legal support is being considered as currently all prosecution activity for this area currently gets outsourced to external solicitors.-

(Approved by: Dianne Ellender, Head of Finance and Deputy S151 Officer)

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council comments that it is appropriate to review and update the Council's Environmental Enforcement policy to accord with legislative changes and reflect new approaches to Council Environmental enforcement. Any enforcement policy and subsequent use of enforcement powers by the Council will need to be undertaken in a responsible, consistent, appropriate and proportionate manner.

(Approved by: Jessica Stockton, Corporate Solicitor for and on behalf of the Council Solicitor & Director of Democratic & Legal Services)

7. HUMAN RESOURCES IMPACT

- 7.1 There are potential human resources implications arising from this report as a result of the Eyes and Ears project which could impact on some staff. Consultation with affected staff and their representatives on any proposed changes will be managed in accordance with the Council's HR procedures.

(Approved by: Adrian Prescod, HR Business Partner, for and on behalf of Director of Human Resources, Chief Executive Department.)

8. EQUALITIES IMPACT

- 8.1 An equality analysis has been undertaken to assess the implications of the environmental enforcement policy. The analysis concluded that the actions that are proposed to make Croydon a Cleaner and greener borough are unlikely to directly affect equality groups that share a "protected characteristic". In terms of enforcement action, the direct impact will be upon anyone who is caught committing an environmental offence rather than any particular group.

- 8.2 The equality analysis has identified a number of specific equality issues around involvement of local community groups and the provision of accessible information. These will be addressed through the implementation process and service delivery. For instance, services will ensure that different equality / community groups and schools are engaged in the campaign to educate and raise awareness of the clean and green agenda and any communication / information that we produce is accessible. The services are working with Street Champions and ensure they represent the diversity of the community and work in partnership to seek community involvement in clear ups.

9. ENVIRONMENTAL IMPACT

- 9.1 The recommendations of this report impact significantly on the environment as they are specifically designed to address environmental crimes such as fly-tipping and littering. The aim will be to send clear messages that the Council will not tolerate these offences, change attitudes to fly tipping and littering and ultimately make the Borough a safer and cleaner place to live, work and visit.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 The recommendations of this report will impact on crime and disorder in that they are intensifying the Councils approach to identifying and prosecuting people involved in fly-tipping, littering and other environmental offences. Bringing together the various parts of the enforcement functions of the council through Eyes and Ears will also improve the responsiveness of the services to environmental crime complaints.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 It is necessary for the Council to set out its approach on how it will enforce environmental offences. Failure to do this would leave the Council open to criticism for not having a clear, published policy. In particular, when enforcement cases are taken to court defence solicitors may use the lack of a coherent policy, or failure to adhere to the policy as a way to undermine the Council's approach to a particular case.

12. OPTIONS CONSIDERED AND REJECTED

12.1 The only other option available is not to seek to implement a new environmental enforcement policy. This has been discounted because it would mean that an up to date policy was not in place and places risk on the Council when trying to apply the new powers.

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BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

Equality Analysis