

EAST AYRSHIRE COUNCIL

CUMNOCK AREA LOCAL COMMITTEE – 11TH SEPTEMBER 2003

FLY-TIPPING

Report by Director of Community Services

1. PURPOSE

- 1.1 To advise the Local Committee of measures available to the Council to deal with fly-tipping.

2. BACKGROUND

- 2.1 Fly-tipping is a general term given to the practice of abandoning waste materials on ground which is not within the control of the perpetrator.
- 2.2 Fly-tipping has been a recognised problem within the Cleansing Services for many decades and appears to be driven by a number of factors including lack of knowledge about legal waste disposal services; avoidance of charges for legal waste disposal; or simply a complete disregard for general standards of cleanliness within the environment.
- 2.3 Each year, Scotland's Councils spend millions of pounds removing fly-tipping and litter. It is thought that the total annual costs are in excess of £50,000,000.
- 2.4 The problem is not confined to either towns or rural areas but appears wherever the perpetrators can commit the act without fear of being identified. There is also evidence that if fly-tipping is not removed quickly, it encourages others to deposit more waste on the site.
- 2.5 East Ayrshire Council currently offers one of the most generous household waste collection services in Scotland where in addition to a weekly wheeled bin collection, householders can place up to six additional bags/bundles/items of household furniture, household waste or garden waste beside the bin. The Council also offers a wide-ranging commercial waste collection and disposal service at modest charges which while fully recovering the cost of the service, are more attractive than commercial rates offered by private contractors.
- 2.6 The Council also provides civic amenity sites at Western Road, Kilmarnock and Garlaff Landfill by Skares where members of the public can take extra household waste for free disposal.
- 2.7 In theory therefore, there should be no need for anyone to fly-tip their waste within the Council area.

3. DISCUSSION

3.1 Responsibility for the removal of fly-tipped waste (where the perpetrator cannot be identified) rests with the owner of the ground affected. As the Council is a significant land owner within East Ayrshire, Council staff within the Environmental Health and Waste Management Service and the Cleansing DSO are trained in waste identification, collection and disposal procedures for fly-tipped waste. Where the Council ground is owned by a Department other than Community Services, the costs of the removing fly-tipped waste are recharged to the appropriate Department.

3.2 Where the ground is not owned by the Council, Council staff will assist in identifying the waste concerned and provide advice on it's safe uplift and disposal.

On request, Council staff will remove fly-tipped waste with the cost being recharged to the owner of the ground.

3.3 Where it is clear that the fly-tipped waste arises from a trade or business, Council staff will involve officers from the Scottish Environmental Protection Agency who will attempt to identify the waste by it's nature, quantity etc. All commercial waste transactions are subject to the Duty of care which means that producers, carriers and disposers are required to complete statutory "transfer notes" and SEPA staff have authority to inspect such notes. After SEPA staff have completed their investigations, responsibility for removal of the waste then reverts to the owner of the ground.

3.4 Where however the waste is of a nature and quantity which would not normally involve SEPA staff, Council officers will do their best to identify those responsible for the fly-tipping. In the case of garden waste which appears to emanate from nearby housing areas, waste management staff have a standard letter which is issued to all households in the vicinity reminding them that the Council's collection service caters for the uplift of additional waste and there is therefore no need for garden waste to be fly-tipped.

3.5 Where there is evidence which points to the identity of the person responsible for the fly-tipping, a number of officers are authorised to issue fixed penalty notices. The fee fine for these notices is £50 and if not paid within a specified time, the individual concerned can be the subject of a report to the Procurator Fiscal. A number of fly-tipping incidents in East Ayrshire have already been dealt with using this procedure. It should be noted however that Council staff do not have the authority to inspect waste transfer notes and at the present time this limits our ability to investigate individual incidents.

The Council has through Cosla, made representations to the Scottish Executive for the legislation to be changed to allow Council staff access the waste transfer notes currently available to SEPA staff.

4. FINANCIAL IMPLICATIONS

- 4.1 At the present time the cost of providing control services for fly-tipping can be accommodated within existing budgets. It is fair to say however that if the practice could be curtailed then this could free up significant monies to be spend on more worthwhile projects.

5. LEGAL IMPLICATIONS

- 5.1 The Environmental Protection Act 1990.

6. POLICY IMPLICATIONS

- 6.1 Fly-tipping is illegal and contrary to the Council's Environmental Strategy.

7. CONCLUSIONS

- 7.1 Fly-tipping is a problem which has existed for many decades and it's removal is a source of considerable expenditure for the Council each year.
- 7.2 Council staff have considerable expertise in identifying fly-tipped waste and making arrangements for it's uplift and disposal.
- 7.3 Responsible for the removal of fly-tipped waste lies with the owners of the ground affected.
- 7.4 Wherever possible, Council staff (and where appropriate, officers of the Scottish Environmental Protection Agency) will carry out full investigations and take legal action against anyone allegedly responsible for fly-tipping.

8. RECOMMENDATIONS

- 8.1 The Local Committee is invited to note the contents of the report.

William Stafford
Director of Community Services

WS/JFC/CAM

27th August 2003

LIST OF BACKGROUND PAPERS

Nil

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