

CABINET

15 FEBRUARY 2011

REPORT OF THE LIVING AND WORKING SELECT COMMITTEE

Title: In-Depth Review of Fly-Tipping Services	For Comment
<p>Summary: On the 26 July 2010 the Living and Working Select Committee (LWSC) agreed to carry out an in-depth scrutiny of Fly-Tipping services.</p> <p>The LWSC met between 26 July 2010 and 24 January 2011 to receive evidence, reports and presentations from service providers. The final report, which was agreed by the LWSC on 24 January 2011, represents the findings and recommendations that have emerged from the scrutiny review.</p> <p>In accordance with the Council's Constitution, Part C, Section F, paragraph 7, the LWSC is bringing the report to Cabinet for comment, prior to it being presented to Assembly for agreement.</p> <p>Once the report has been agreed by Assembly, the LWSC will ask the relevant departments to respond to the recommendations and for an action plan of implementation to be drawn up. After six months a progress report will be presented to the LWSC for monitoring purposes.</p> <p>A copy of the final report is attached as Appendix A.</p> <p>Wards Affected: All Wards</p>	
<p>Recommendation(s) The Cabinet is asked to consider the Living and Working Select Committee's final report and, if appropriate, make comments to inform the Assembly on 30 March 2011.</p>	
<p>Reason(s) To assist the Council in achieving its Community Priority to be a clean, green and sustainable borough where there is an awareness of what needs to be done to tackle climate change and reduce pollution, waste, fly-tipping (illegally dumping rubbish) and graffiti.</p>	
<p>Implications:</p> <p>Financial: It is anticipated that any financial requirements resulting from the recommendations in this report will be met from either existing Council budgets and/or Partner budgets. Options for external funding will also be investigated wherever possible. If agreed recommendations cannot be met from existing budgets, appropriate approvals will be sought from Council processes for the relevant financial resource.</p> <p>Legal: The legal provisions and guidance relating to fly-tipping are set out in the body of the report. The Council can work in partnership with local businesses and partners to combat the problem, including the use of CCTV.</p>	

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Living and Working Select Committee



Fly-Tipping Services

Lead Member Foreword



As the majority of Members were newly elected, the Living and Working Select Committee agreed to undertake a short investigation into fly-tipping. This was an issue that affects the whole Borough and would assist in achieving one of the Council's priorities. The Borough cleaner priority states:

“ We want a clean, green and sustainable borough where we are all aware of what we need to do to tackle climate change and reduce pollution, waste, fly-tipping (illegally dumping rubbish) and graffiti. “

Fly-tipping is unsightly, impacts on the environment in terms of pollution and poses a danger to wildlife. Areas where the problem persists look neglected and gives out the impression that residents do not care about their local environment. Obviously this is not the case and together we need to get the message out that Barking and Dagenham is not going to tolerate this illegal behaviour.

The Council is already addressing the problem of Eyesore gardens which has proved popular with residents and a great success.

There is a push for local authorities and agencies to work together to achieve the delivery of efficient and effective services. This is particularly helpful in respect of fly-tipping when carrying out targeted campaigns across boundaries and sharing expensive resources, such as covert cameras.

Borough residents, Councillors and officers must work together as a team to identify offenders and effective ways to minimise the practice of fly-tipping.

The Select Committee has tried to put forward practical recommendations that will benefit residents, without being unrealistic and unachievable because of cost.

Councillor James Ogungbose

Lead Member of the Living and Working Select Committee

1 Introduction

The Environmental Protection Act 1990 Section 33 makes it an offence to “deposit controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence”. It goes on to state that it is also an offence to store controlled waste without a similar licence.

The penalties for such offences were increased by the Clean Neighbourhoods and Environment Act 2005 from £20,000 to £50,000 and a prison sentence of up to 12 months at the Magistrates Court or at the Crown Court a prison term of up to 5 years and a fine. Alongside this increase in penalties other provisions were made such as the power to require landowners to clear fly tips from their land, the power to recoup costs for clearing fly tips and the power to seize vehicles that have been involved in fly tipping. The act also extended the powers to prosecute householders whose waste turns up fly tipped and therefore places the responsibility on them to ensure anyone that takes their waste away is a registered waste carrier.

Section 34 of the Environmental Protection Act relates directly to businesses and places them under a Duty of Care to manage their waste in a proper and legal manner. In detail this means that waste must be stored securely and only put out when it is due for collection. If refuse escapes due to a ripped bag or tipped over bin etc, then the owner of that waste must retrieve it. The owner of the waste is responsible for their waste at all times until it is handed over to a person or organisation authorised to receive it.

2. Membership

The Living and Working Select Committee (LWSC) consisted of nine Councillors in the 2010-2011 municipal year:

- Councillor J Ogungbose (Lead Member)
- Councillor T Perry (Deputy Lead Member)
- Councillor Aziz
- Councillor R Baldwin
- Councillor J Channer
- Councillor J Davis
- Councillor A S Jamu
- Councillor G Letchford
- Councillor S Tarry

Pat Brown, Senior Scrutiny Officer, supported the Select Committee.

3. Choosing an Area for Review

The LWSC began its inaugural in-depth review on 26 July 2010 and chose fly-tipping.

This topic of fly-tipping was chosen as an area for intense scrutiny for the following reasons:

1. It was identified by Members as a persistent problem across the Borough.
2. Local Residents feel strongly about the physical appearance of their neighbourhoods.
3. National Indicator 196 – Improved Street and Environmental Cleanliness – Fly-tipping – was judged to be 'poor' in 2008/2009
4. The review would link to the community priority of a 'clean' Borough.
5. The cost to the residents of the Borough to clear indiscriminately discarded waste.
6. The cost of fly-tipping to the Borough is around £2.2 million per year.

4. Methodology

Terms of Reference (see Appendix 1) were agreed at the 26 July 2010 meeting.

Andrew Yellowley, Interim Head of Environmental and Enforcement Services, was appointed as Lead Services Officer to provide expertise and guidance.

Darren Henaghan, Corporate Director of Customer Services, was nominated as the LWSC Scrutiny Champion, supported the Select Committee throughout the review and helped oversee the delivery of the project in collaboration with the Lead Member and Scrutiny Officer.

The Select Committee met on 21 September 2010 and 6 October 2010. In addition to formal evidence-gathering, the Select Committee researched fly-tipping by undertaking a visit to problem locations, engaging in secondary reading and consulting with local people.

The LWSC heard evidence from senior officers, met with residents and business owners and Councillors. In its third meeting the LWSC brought together its findings and started to prepare the final report. The in-depth review concluded on 24 January 2011 when this report and its recommendations were agreed by the LWSC.

5. What Happens Next?

The report will be presented to Cabinet on 15 February 2011 for comment and then for consideration by the Assembly on 30 March 2011.

If agreed, an action plan outlining how the recommendations will be produced and thereafter monitored until each recommendation has been implemented. The first monitoring update will be heard by the LWSC in six months' time.

When finalised and agreed, the findings of this report are to be publicised in the following ways;

- A downloadable copy will be made available from www.lbbd.gov.uk/scrutiny
- A brief summary of the report will be published in 'The News' and sent to other local newspapers.
- A downloadable copy will be made available from the 'Centre for Public Scrutiny' website.

6. What is Fly-Tipping?

Fly-tipping is the illegal dumping of waste and is a crime. It is a serious problem in England and Wales and can cost £100 - £150 million every year.

Fly-tipping:

- Is a criminal activity that can cause serious pollution of the environment, may be a risk to human health and can harm wildlife and farm animals
- Spoils the local neighbourhoods and quality of life
- Costs landowners and the taxpayer an estimated £100 million every year to clean up
- Costs local authorities £44 million each year to clear up
- Undermines legitimate waste management companies who are undercut by illegal operators
- Unsightly fly-tipped waste can deter investment in the area and lead to a lack of pride among local people

Waste can only be disposed of by holders of a Waste Management Licence or taken to an officially authorised site, such as Frizlands Lane, Dagenham.

The difference between litter and fly-tipping is the size and amount. Litter is usually small, such as crisp packets, discarded cigarettes or apple cores, whereas fly-tipping is larger items of rubbish, such as a sack of rubbish, fridges, sofas, tyres, mattresses or dangerous materials such as toxic waste, dumped on land.

People fly-tip to avoid paying a levy, called a landfill tax. An authorised officer, including the Police, can issue a Fixed Penalty Notice set at £300 to anyone transferring bulky waste without a Waste Management Licence.

In line with national protocols, where there are land quality and waste management issues, the Environment Agency tackles

- large-scale fly-tipping;
- fly-tipping of certain hazardous wastes; and,
- fly-tipping carried out by organised criminals.

7. Local Policy

The Local Authority is the designated Waste Collection Authority for Barking and Dagenham and tackles the clear-up of fly-tipping on publicly owned land, including roads and lay-bys.

Local Authorities are responsible for keeping the streets and public open spaces clear of litter and refuse and bear the cost of disposal. There is a specific policy in the Council's Waste Management Strategy 2005 - 2020 that outlines how the Borough will address fly-tipping.

All kinds of waste have been dumped illegally in Barking and Dagenham including household waste, commercial waste, animal carcasses, vehicle parts, tyres and hazardous oils, asbestos sheeting and chemicals.

The diagram below gives a snapshot of the local fly-tipping problem

Incidents and costs of dealing with fly-tipping in the London Borough of Barking and Dagenham (LBBB)

	LBBB 08/09	LBBB 09/10	LBBB 10/11 (to date)	Total
Number of Enforcement Notices	764	881	458	2,103
Number of Prosecutions	40	39	38	117
Number of issued fixed penalty notices	154	85	61	300
Number of paid fixed penalty notices	143 (92.8%)	66 (77.6%)	48 (78.6%)	257 (85.6%)

8. Findings and Recommendations

In compiling the findings, the evidence gathered by the Select Committee has been grouped into key themes, and recommendations are presented with the relevant themes to provide context. For ease of reference the recommendations can also be viewed as a list in Appendix 2.

9. Campaigns

In recent years LBBB has only run one campaign specifically targeted at fly tipping. It was a co-ordinated task project that was initiated due to the amount of crime happening on the Gascoigne estate. Actions included fly tipping – if a fly tip was spotted then the task force would clear it there and then. Other actions included removing graffiti and abandoned vehicles. The project was winner of London Problem Solving Awards 2008

Another environmental education event, which does not specifically target fly tipping but incorporates it, is the annual schools' quiz. The purpose of the quiz is to raise awareness of a variety of environmental issues, including global warming, recycling and environmental crime. The quiz has been extremely effective and is very

popular with students and teachers alike. Feedback from teachers has been that the quiz has been very useful.

Recommendation 1

The Living and Working Select Committee recommends:

- (a) Additional education in schools, highlighting that fly-tipping is illegal, enforcement penalties and the messages it sends out about the community; and,
- (b) High profile community campaigns to be undertaken setting out the cost to residents through council tax and the impact on the environment.

10. Reporting Incidents

The Council's website could play a significant part in the reporting and monitoring of fly-tipping incidents. Residents would be able to report incidents, track the progress of the removal of fly-tipped waste and any enforcement action that may be taken.

Recommendation 2

The Living and Working Select Committee recommends that the values of good customer service with resolution at the first point of contact are upheld in the customer interface of fly-tipping services and consideration is given to alternative best practice reporting initiatives.

Recommendation 3

The Living and Working Select Committee recommends that local people have the provision to track reported incidents of fly-tipping using the Council's website.

11. Working with Partners

The Council has the primary responsibility for dealing with fly tipping in its own area. The Environment Agency also has some powers to deal with fly tipping and do so in more rural areas where fly tipping can have a more significant impact on wildlife.

Although LBBD has not undertaken a great deal of working with partners, experience shows that this can work well. Examples of this can be seen across the country in areas such as Kent, where joint operations are run by the District Councils, the Environment Agency, Police, Her Majesty's Revenues and Customs, The Vehicle and Operator Services Agency, Driver and Vehicle Licensing Agency and the County Council. As large scale fly tipping is often linked to serious crime such as drug sales, these other agencies welcome an opportunity to investigate such unscrupulous individuals and businesses and many fines and convictions for other crimes have been gained in this manner.

Fly tipping is not just a local problem and it is believed that in many areas fly tipping does not originate with the borough's boundaries but may be brought from

elsewhere. Some authorities work together across boundaries sharing intelligence on known persistent fly tippers.

Recommendation 4

The Living and Working Select Committee recommends development of the Borough's intelligence sharing activities with neighbouring boroughs and national agencies, such as the Environment Agency and Her Majesty's Revenue and Customs. This would primarily be through involvement in GAIN (Government Agency Intelligence Network) or similar groupings.

12. Working with Residents

A particular problem that we face in Barking and Dagenham is due to the fact that many of our housing areas have rear alleyways. These alleyways attract a high level of fly tipping. Residents have got wise to the fact that if they leave any traceable evidence in the fly tip they are likely to be traced and fined. On many occasions they also claim that the fly tip was placed there by someone from another street or area.

One approach that we have had to this has been the very successful alley gating scheme. This scheme has seen a high number of rear alleyways gated with only the residents having keys, therefore if an alleyway is fly tipped, it can only be the residents that have caused the problem. This allows officers to then write to all of the residents who have access to the alleyway, informing them of the issue, educating them to the fact that this is not acceptable and warning them they may be fined and charged for clearance.

Recommendation 5

The Living and Working Select Committee recommends that residents should be encouraged to report incidents to help build a true picture of the problem and assist in collection of evidence.

Recommendation 6

The Living and Working Select Committee recommends residents should be encouraged to ask the right questions as to how any waste will be disposed of when engaging workmen to carry out home improvements to ensure it is being disposed of legally.

Recommendation 7

The Living and Working Select Committee recommends that, where there are areas of high rates of persistent fly-tipping, in given circumstances they are well lit and a more proactive use of gating orders put in place.

13. Use of surveillance

The use of overt or covert surveillance has also worked well in certain boroughs. Where there are known hotspots in areas, covert surveillance can be used to spot offenders and this information has successfully been used in prosecutions. LBBD currently has no covert surveillance equipment. Whilst this equipment can be expensive to purchase often the money is recouped through fines and costs awarded by the courts.

Recommendation 8

The Living and Working Select Committee recommends that current strategy is broadened to include, where feasible, purchasing and sharing of equipment with other boroughs, such as covert cameras.

A particular problem of fly-tipping occurs around commercial properties, such as retail shops, rear access and waste land. Members did not have any evidence of partnership working between the Local Authority and business proprietors who had CCTV installed at their premises. It was felt that officers should liaise with local businesses to ascertain whether they would make CCTV footage available should there be incidents of the illegal practice of fly-tipping.

Recommendation 9

The Living and Working Select Committee recommends the Local Authority liaise with local businesses in an attempt to reach agreement for them to share CCTV footage when fly-tipping has taken place in the local area.

14. Enforcement

The Council will use its enforcement powers to ensure all businesses comply with their duty of care around disposal of waste.

The Eyesore and Public Health Team within the Local Authority's Area Environmental Service deal with enforcement of all fly-tipping. The team, which consists of eight Environmental Health Officers and nine Environmental Enforcement Officers, deals with eyesore, environmental and public health issues

The Eyesore Gardens campaign was launched in October 2009 in response to residents' concerns about the number of rubbish-filled and overgrown front gardens in the borough. Residents and landlords who allow their front gardens to become untidy rubbish tips could face prosecution under this scheme.

Since the scheme started in October 2010, the Eyesore Gardens team has visited nearly 6,000 gardens, served over 600 legal notices, provided assistance to more than 150 residents and removed nearly 25 tonnes of waste from Borough gardens

The Public Health waste issues are the disposal of clinical waste.

There is a fine line to be taken with regard to enforcement. If enforcement is pursued it will mean that the illegally dumped rubbish must be left in place until all evidence can be taken. The danger with leaving the rubbish in place is that it will

inevitably attract further fly-tipping, because it sends a message that no one cares about that particular area. If the site is cleared quickly, it is less likely, at least in the short term, to attract further fly-tipping.

A decision also has to be made regarding cost comparison between clearing the site and proceeding with enforcement and prosecution.

The table below shows the cost between removal and enforcement compared with other neighbouring boroughs for the last six years.

Borough	Enforcement Total	Removal Total	Enforcement/ Incident	Removal/ Incident
Barking and Dagenham	£477,741.00	£1,738,671.00	£17	£60
Havering	£1,272,833.00	£1,837,719.00	£37	£53
Redbridge	£1,085,084.25	£1,139,088.00	£53	£55
Newham	£787,914.50	£8,216,224.00	£6	£63

Enforcement actions consist of investigations, warning letters, statutory notice, fixed penalty notice, duty of care inspection, stop and search, formal caution and prosecution.

Recommendation 10

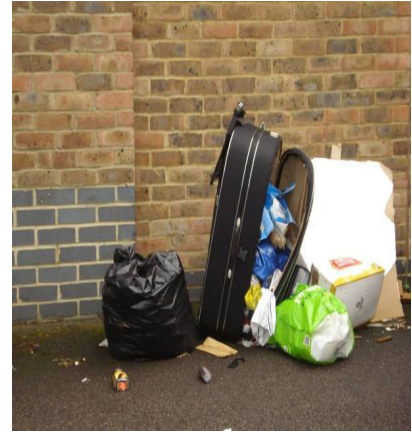
The Living and Working Select Committee recommends targeting of enforcement in areas of persistent fly-tipping and significant clean-ups and prosecutions should then be widely publicised to share that action has been taken.

15. Problem Areas

There was a need to develop partnerships with business to support the Council in overcoming the fly-tipping problem.

Members felt the response quoted to complainants to remove black bags in 48 hours was too long.

Officers felt that covert surveillance equipment would be useful. This would be particularly helpful in areas such as River Road where the problem of fly-tipping is constant. The equipment would help in identifying offenders to prosecute and report in the press. Also more signage to raise awareness of campaigns and their consequences would assist.



These pictures illustrate typical fly-tipped waste that had to be removed from various locations in the Borough.

Recommendation 11

The Living and Working Select Committee recommends the installation of clear signage to deter fly-tipping in problem areas.

16. Local Strategy Targets

The waste management needs of the new communities that will come to the borough as part of the regeneration of the Thames Gateway and the 2012 Olympics.

The intention of Barking and Dagenham is to become an excellent council in Corporate Priorities for Action (CPA) terms.

17. Background Papers

(See Appendix 3)

18. National Policy

The most recent data from fly capture is the 2008/09 data, that shows that on average local authorities in England has 3,295 incidents of fly tipping, which is significantly lower than the 7,275 incidents at Barking and Dagenham during the same year.

In that year there were over 1.1million incidents of fly tipping recorded by all local authorities in England and Wales with less than 2,000 prosecutions. This being said the average for all London Boroughs during the same year was 15,967.

19. Regional/sub-regional policy

The desire to maximise the benefits of the East London Waste Authority (ELWA) and Joint Municipal Waste Management Strategy (JMWMS).

21. Conclusion

The review was undertaken over a short period of time, however, it became apparent that there was no simple solution to the problem of fly-tipping. The following main points were identified:

- The London Borough of Barking and Dagenham does not suffer with disproportionately high levels of fly tipping compared with all London Boroughs or nearest neighbours.
- The costs of removing fly tipping are similar to that of neighbouring authorities.
- The money spent on enforcement is considerably less than two of the three neighbouring boroughs.
- The Council concentrates more on the removal of fly tips than on enforcement.
- The Council's enforcement capacity is limited and resource tends to be targeted at large campaigns, such as eyesore gardens, rather than routine investigations of fly tipping.
- The Council should endeavour to ensure the cost of legal waste disposal is kept as low as possible.

Reducing the number of incidents of fly-tipping and the cost burden to taxpayers is a national problem. However, the Local Authority's officers, together with Councillors, will continue to look at innovative strategies to improve the situation.

Terms of Reference

- To assess the levels of fly-tipping locally over the last 10 years
- To investigate the costs implications for removal and clean up to the Borough
- Assess if there are particular areas where fly-tipping reoccurs, i.e. social housing, owner occupier, commercial properties/areas, waste grounds
- To have a clear understanding of enforcement legislation
- What penalties for offenders of fly-tipping are in place
- To access past campaigns and the level of improvement that has been achieved
- To involve the community in the scrutiny process, provide them with opportunities to give evidence and inform the review
- To investigate whether services have equal access and equal outcomes across the Borough
- To consider any related equalities and diversity implications
- To ensure that any evidence collected is used appropriately
- To collaborate with partner organisations to identify opportunities where partner working could benefit the environment
- To consider the overall delivery of services, with an aim to improve any that are considered weak and addressing any gaps in service
- To review best practice in other local authorities
- To produce a final report with findings and recommendations for future policy and/or practice.

List of Recommendations

The following recommendations are set out here as a list, for ease of reference.

Recommendation 1

The Living and Working Select Committee recommends:

- (a) Additional education in schools, highlighting that fly-tipping is illegal, enforcement penalties and the messages it sends out about the community; and,
- (b) High profile community campaigns to be undertaken setting out the cost to residents through council tax and the impact on the environment.

Recommendation 2

The Living and Working Select Committee recommends that the values of good customer service with resolution at the first point of contact are upheld in the customer interface of fly-tipping services and consideration is given to alternative best practice reporting initiatives.

Recommendation 3

The Living and Working Select Committee recommends that local people have the provision to track reported incidents of fly-tipping using the Council's website.

Recommendation 4

The Living and Working Select Committee recommends development of the Borough's intelligence sharing of fly-tipping activities with neighbouring boroughs and national agencies, such as the Environment Agency and Her Majesty's Revenue and Customs. This would primarily be through involvement in GAIN (Government Agency Intelligence Network) or similar groupings.

Recommendation 5

The Living and Working Select Committee recommends that residents should be encouraged to report fly-tipping incidents to help build a true picture of the problem and assist in collection of evidence.

Recommendation 6

The Living and Working Select Committee recommends residents should be encouraged to ask the right questions as to how any waste will be disposed of when engaging workmen to carry out home improvements to ensure it is being disposed of legally.

Recommendation 7

The Living and Working Select Committee recommends that, where there are areas of high rates of persistent fly-tipping, in given circumstances they are well lit and a more proactive use of gating orders put in place.

Recommendation 8

The Living and Working Select Committee recommends that current waste strategy is broadened to include, where feasible, purchasing and sharing of equipment with other boroughs, such as covert cameras.

Recommendation 9

The Living and Working Select Committee recommends the Local Authority liaise with local businesses in an attempt to reach agreement for them to share CCTV footage when fly-tipping has taken place in the local area.

Recommendation 10

The Living and Working Select Committee recommends targeting of enforcement in areas of persistent fly-tipping and significant clean-ups and prosecutions should then be widely publicised to share that action has been taken.

Recommendation 11

The Living and Working Select Committee recommends the installation of clear signage to deter fly-tipping in problem areas.

Background Papers

Author	Title	Date
Living and Working Select Committee	Agendas and Minutes	2010 / 2011
London Borough of Barking and Dagenham	Barking and Dagenham Waste Management Strategy 2005 - 2020	28 March 2006
Environment Agency	Fly-Tipping Protocol	1 October 2010
Environment Agency	Fly-Tipping	1 October 2010
Environment Agency	Fly-Tipping Explained	1 October 2010
Keep Britain Tidy	Knowledge Bank - Fly-Tipping Legislation	
Department for Environment Food and Rural Affairs	Flycapture fly-tipping national database background	1 October 2009
National Fly-Tipping Prevention Group	Tackling Fly-Tipping	April 2006

Site Visits

Contributors:

- Darren Henaghan, Corporate Director of Customer Services
- Peter Tonge, Group Manager Area Environmental Services
- Andrew Yellowley, Interim Head of Environmental and Enforcement Services
- Angela Bennett, Executive Officer, Customer Services Department
- Colin Gregory, Environmental Officer
- Jeff Josh, Environmental Officer

Site Visits:

A tour of the borough was undertaken by Members to examine areas where there was a persistent problem of fly-tipping. This included industrial areas, the rear of commercial properties and residential properties.