

Report To:	OVERVIEW AND SCRUTINY	Date:	11 SEPTEMBER 2017
Heading:	INTRODUCTION TO SCRUTINY REVIEW OF FLY-TIPPING		
Portfolio Holder:			
Ward/s:	ALL		
Key Decision:	NO		
Subject To Call-In:	NO		

Purpose Of Report

In July 2017 the Overview and Scrutiny Committee approved a review of fly-tipping be undertaken to understand reasons for the national rise, powers available and actions that could be explored to reduce this in Ashfield.

This scoping report provides Members with an overview of the topic and draft terms of reference for discussion at the meeting.

Recommendation(s)

Members are asked to;

- Note the information contained in the report
- Agree a clear terms of reference for undertaking the review

Reasons For Recommendation(s)

Fly-tipping was identified and approved as a topic in 2017 following consultation on the Scrutiny Workplan.

Alternative Options Considered (With Reasons Why Not Adopted)

None at this stage of the review

Detailed Information

Fly-tipping is the illegal dumping of waste and is a crime. It is a serious problem in England and Wales and can cost £86 - £186 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 £50 million each year to clear up
- Undermines legitimate waste management companies who are undercut by illegal operators
- Unseen fly-tipped waste can deter investment in the area and lead to a lack of pride among local people

Waste and construction waste can only be disposed of by holders of a Waste Management Licence or taken to an officially authorised site. 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. An authorised officer, including the Police, can issue a Fixed Penalty Notice up to £300 to anyone transferring bulky waste without a Waste Management Licence. The fixed penalty for fly tipping is £400.

Local authorities and the Environment Agency (EA) both have a responsibility in respect of illegally deposited waste. Local Authorities have a duty to clear fly-tipping from public land in their areas and consequently they deal with most cases of fly-tipping on public land, investigating these and carrying out a range of enforcement actions. The Environment Agency investigates and enforces against the larger, more serious and organised illegal waste crimes.

Both Local Authorities and the Environment Agency are required to collect data on their activity and report this to the Fly Capture database. Responsibility for dealing with fly-tipping on private land rests with private landowners and is not subject to mandatory data reporting.

Legislation and Powers

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 five 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 such as a ripped bag or tipped over bin, 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.

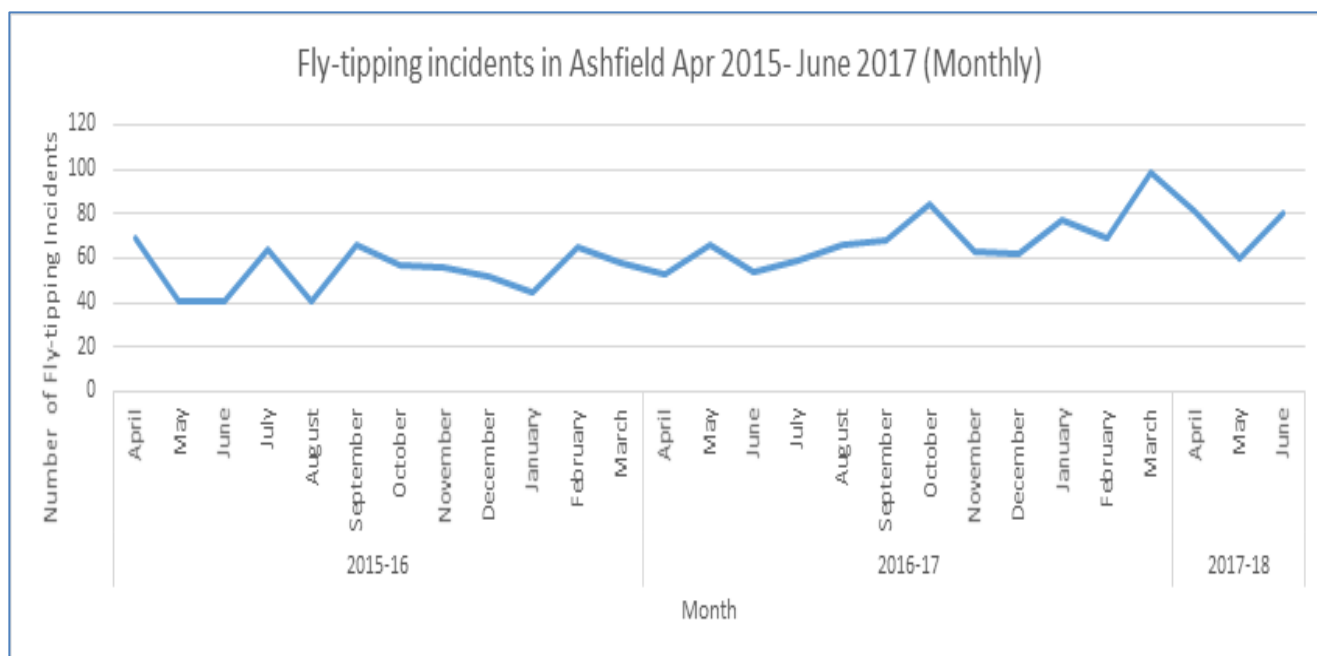
From 9 May local authorities have been given greater powers to tackle the crime by issuing penalty notices of between £150 and £400 to those caught in the act of fly-tipping anything from old fridges or sofas to garden waste or rubble.

Introducing fixed penalty notices for fly-tipping is the latest move in a government crackdown on waste crime, which costs the economy millions of pounds a year in clean-up costs, undermines legitimate business, and poses serious risks to our environment.

Local Picture

Fly-tipping is a national problem and is increasing across the country. Within Nottinghamshire, 6 out of the 7 districts reported an increase in fly-tipping incidents from 2015/16 to 2016/17. Ashfield reported an increase of 19%, however Mansfield (21%), Rushcliffe (42%) and Newark and Sherwood (44%) all reported higher increases.

The graph below shows the total number of fly-tipping incidents between 2017.



Fly-Tipping Campaign - #CrimeNotToCare

In March 2017, Ashfield District Council launched a campaign to tackle fly-tipping. The campaign is designed to raise awareness of the importance of this type of irresponsible behaviour. Officers are working with residents wherever possible to deal with waste and with

the new maximum penalty in place for fly-tippers, the potential punishment is now far greater.

#CrimeNotToCare, is being run in partnership with environmental charity Keep Britain Tidy, aims to educate householders about the right thing to do with their rubbish and to reduce the amount of household waste that is fly-tipped by rogue traders who offer to take people's waste away for money and then dump it.

The campaign aims to get the message across that if an individual's waste is fly-tipped, even if they gave it to a third party to dispose of, they can be prosecuted and end up with a fine and a criminal record. Ashfield District Council will soon be using new legal powers to impose larger fines than ever before for fly-tippers, stamping down on this environmental crime.

Next Steps

- Approve the Terms of Reference
- Agree any additional information required
- Agree any expert witnesses

Implications

Corporate Plan:

Supports the Council's corporate Place and Communities theme and purpose of helping residents dispose of their waste responsibly and in a sustainable way.

Legal:

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.

Finance:

There are no financial implications resulting from this scoping report, however, fly-tipping has financial costs for the authority. These will be explored as part of the review and will require input from Finance and Environmental Services.

Budget Area	Implication
General Fund – Revenue Budget	N/A
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A

Housing Revenue Account – Capital Programme	N/A
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Human Resources / Equality and Diversity:

None

Other Implications:

None

Reason(s) for Urgency (if applicable):

None

Exempt Report:

None

Report Author and Contact Officer

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Appendix A – Draft Terms of Reference

<p>Subject</p>	<p>Fly-tipping</p>
<p>Purpose of Review</p>	<p>To understand reasons for the local and national rise, powers available and actions that could be explored to reduce this in Ashfield.</p>
<p>What the Review will Consider</p>	<ul style="list-style-type: none"> • Knowledge <ul style="list-style-type: none"> ○ Behavioural and sociological research ○ Why do we have the fly-tipping levels we do? ○ Increasing trends • Education <ul style="list-style-type: none"> ○ Public communication ○ Education (at schools and through community / cultural groups) • Enforcement <ul style="list-style-type: none"> ○ Current systems (to what extent is this proving effective?) ○ Success of enforcements ○ Deterrents ○ Trade waste and dumping ○ Landlord dumping • Publicity <ul style="list-style-type: none"> ○ Success / failure of previous and current publicity campaigns ○ Analysis of the level of public awareness
<p>Methodology</p>	<ul style="list-style-type: none"> • Information gathering • Officer expertise • Performance Information • Site visit

<p>Desired Outcome</p>	<ul style="list-style-type: none"> • Better understanding of fly-tipping behaviour in Ashfield • Clearer understanding of the council's role and the work it undertakes regarding fly-tipping • Reduction in the levels of fly-tipping in Ashfield • Cleaner and safer environments for all Ashfield residents • Reduction in clean-up and enforcement costs • Opportunities for increased revenue • More community involvement and stronger residents and council relationships • Better community spirit and cohesion • Efficiency savings, such as officer time
<p>Timescale</p>	<p>September – December 2017</p>