

WEST NORTHAMPTONSHIRE COUNCIL
Place Overview and Scrutiny Committee

29 March 2022

Report Title **Fly-tipping Charter and Action Plan**

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Contributors/Checkers/Approvers

Solicitor and MO	James Chadwick, Senior Licensing and Litigation Solicitor.	16 th March 2022
Senior Finance Officer	Antony Russell	14 March 2022
Director for the Overview and Scrutiny Committee	Stuart Timmiss Director of Place and Economy	21 March 2022

List of Appendices

Appendix A – Draft Fly-tipping Charter

Appendix B –Draft Action Plan

1. Purpose of Report

- 1.1. To seek the approval of the Overview and Scrutiny Committee for the draft Fly-tipping Charter and Action Plan.

2. Executive Summary

- 2.1 A draft fly-tipping and duty of care charter and accompanying action plan has been developed to set out how the Council will identify, investigate and deal with the behaviours of those individuals and businesses who feel it is acceptable to not dispose of their waste responsibly, or in accordance with legal requirements.
- 2.2 The accompanying action plan outlines a realistic time limited programme of actions to progress the coordination of work in this area to fully enable harmonised and consistent action to be taken across West Northants.

3. Recommendations

- 3.1 It is recommended that the Place Overview and Scrutiny Committee:
- a) Ratifies the proposed charter and action plan, subject to any suggested amendments the Committee wish to propose
 - b) Agrees to receive an update on the progress of the actions outlined in the action plan in March 2023

4. Reason for Recommendations (NOTE: this section is **mandatory** and **must be completed**)

- To accord with legislation or the policy of the Council
- To ensure that clear and transparent information is in place for residents and communities of West Northants

5. Report Background

- 5.1 An officer working group with representatives from the waste and regulatory services teams has developed a draft fly-tipping and duty of care charter and action plan.
- 5.2 Fly-tipping and other environmental crime is unsightly, it has a negative effect on the perception of the area, it is hazardous to the environment and wildlife and is socially unacceptable. It is also a criminal offence to deposit waste in specific circumstances. Clearing fly-tipping places significant costs both on the Council and on private landowners who are responsible for clearing material fly-tipped on their land. In 2021/22 the cost of disposal of waste from local authority land was £182 000 (this does not include the costs of collecting the waste).
- 5.3 The charter outlines the principles of the coordinated approach that will be taken across the West Northants Council area to tackle this unacceptable behaviour.
- 5.4 The approach focuses on the themes of communication and education, working with partners, enforcement and review.
- 5.5 The charter also clearly sets out limitations upon the authority and thresholds of evidence required for enforcement action.
- 5.6 The draft document at Appendix A expands on each of these themes and the action plan at Appendix B outlines a number of specific time limited actions that will be taken to progress the objectives of the charter.

- 5.7 The actions outlined in the action plan are considered to be proportionate and achievable given current levels of resource available to address fly-tipping and environmental crime. Additional or more rapid action would require the deployment of additional financial or staffing resource.
- 5.8 The charter includes provision for an annual review and it is proposed to report back on progress with the action to Overview and Scrutiny in March 2023 in order to inform this annual review.
- 5.9 The charter is one of a series that it is intended to produce on environmental crime over the coming months, including charters on graffiti, abandoned vehicles, fly posting and the litter charter which is already published.

6. Issues and Choices

- 6.1 Overview and Scrutiny can agree to accept the draft charter and action plan as presented.
- 6.2 Overview and Scrutiny can choose to suggest amendments to the draft charter and action plan

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.1 The measures outlined in the action plan have been formulated in accordance with levels of staffing and financial resource which are available within the budget for 2022/ 23.
- 7.1.2 Should additional measures be proposed or if Overview and Scrutiny recommend that works in the action plan are undertaken to a different timetable, additional resource would be required. This would have to be subject to a funding bid in the next budget round.

Legal

- 7.1.3 “Fly-tipping” is a term commonly used to refer to conduct which amounts to the illegal and disposal of uncontrolled waste, which can be any household, commercial or industrial waste. It does not include “littering”, which a separate and lesser criminal offence. Under section 33 of the Environmental Protection Act 1990, it is illegal for any person to deposit controlled waste, knowingly cause or knowingly permit controlled waste to be deposited in or on any land unless an environmental permit is in force and the deposit is in accordance with the permit.
- 7.1.4 The maximum sentence upon summary conviction in the Magistrates’ Court is imprisonment for a term not exceeding 6 months, an unlimited fine or both. For particularly serious cases, conviction in the Crown Court carries a maximum sentence of five years imprisonment, an unlimited fine or both.
- 7.1.5 Section 33ZA of the 1990 Act allows Councils to issue a fixed penalty notice for fly-tipping waste offences in breach of section 33 of up to £400. It is also an offence under

section 34 for a waste holder to fail to take all reasonable measures to prevent another person committing a section 33 offence, to fail to prevent the escape of waste from his or another person's control and to fail to ensure waste is transferred to an authorised person.

- 7.1.6 The Charter and the Council's Enforcement Policy outline how the above powers will be used in practice.

Legal comments provided by James Chadwick, Senior Licensing and Litigation Solicitor, Legal Services.

7.2 Risk

- 7.2.1 There is a reputational risk to the Council from failing to address fly-tipping and duty of care issues in the area. The charter and action plan outline measures to mitigate this risk.

7.3 Consultation

- 7.3.1 The draft charter has been developed in consultation with colleagues from the Waste and Communications teams.

7.4 Climate Impact

- 7.4.1 Fly-tipping and other environmental crime have a negative impact on the wider environment, with potential to contaminate land and water and to damage eco-systems. By taking actions to deter fly-tipping the measures outlined in the charter can have a positive environmental impact.

7.5 Community Impact

- 7.5.1 Many locations across West Northamptonshire are blighted by fly-tipping. The actions outlined in the charter and action plan seek to address these negative impacts. The charter will provide a positive community impact in terms of enabling a greater understanding of the issues and limitations of the Council in respect of environmental crime matters.

7.6 Communications

- 7.6.1 Communication is one of the key elements of the charter. Colleagues from the Communications team have been involved in its development and will be working closely with the environmental crime team and other partners to promote clear and consistent messaging to deter and deal with fly-tipping.

8. Background Papers

- 8.1 None
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