

**North East Derbyshire District Council**

**Cabinet**

**8 June 2016**

**Joint Fly Tipping Policy – May 2016**

**Report of Councillor M Gordon, Portfolio Holder with Responsibility for the Environment**

This report is public

**1. Purpose of the report**

- 1.1. To recommend for approval a new Joint Fly Tipping Policy 2016 to set standards of service delivery to deal with fly tipping throughout the district of North East Derbyshire District (and Bolsover District) Councils.

**2. Report Details**

- 2.1. This policy has been developed to deal with the levels of fly tipping in the District. Fly tipping is the illegal dumping of waste and is a crime. All types of waste are deposited including household waste, fridges, furniture and builders waste.
- 2.2. The Council has a responsibility to clear fly tipped material on public land and take enforcement action against persons found to be responsible (for fly tipping both on private and publically owned land). However, there is a perception that the Council is responsible for clearing all types of fly tipped waste from any open land even if the land is privately owned.
- 2.3. This Policy gives clear understanding to customers, Councillors and employees on the Council's responsibilities and what actions it will take in dealing with fly tipped waste on both public and private land.
- 2.4. It has been developed from an existing Policy in place at Bolsover District Council which the Joint Environmental Health service has been following. There is currently no such Policy in place at North East Derbyshire so in order to address recent concerns regarding fly tipping actions this joint policy has been developed.
- 2.5. The joint policy meets a service plan target for environmental health and has been developed in conjunction with Street Scene managers, other interested stakeholders and Elected Members and it has regard to relevant Corporate and departmental enforcement policies.
- 2.6. The policy provides guidance on the following:
- Types of Offences
  - Land Types
  - Service Standards

- Duties and responsibilities of other agencies such as the Environment Agency
- Indicative Costs of Waste Removal

2.7. When preparing the Joint Fly Tipping Policy the following information was considered:

- Council's Corporate Plan 2015-19
- Comments from Communities Scrutiny Committee
- Comments from Strategic Alliance Management Team
- Responses from the public, Parish Councils and customer satisfaction surveys
- Regional and national best practice
- Government Guidance.

### **3. Consultation and Equality Impact**

3.1. The Joint Fly Tipping Policy has been developed in conjunction with Street Scene Managers, other interested service managers and corporate working groups. It was considered by the Communities Scrutiny Committee, Strategic Alliance Management Team and Cabinet Member for the Environment. All responses have been considered and included in the final document where appropriate.

3.2. An Equality Impact Assessment has been completed on the Joint Fly Tipping Policy.

3.3. The Policy sets out the approach that the Council will take to deal with fly tipping in line with the Council's Equality Scheme.

### **4. Alternative Options and Reasons for Rejection**

4.1. The Council is not required to have in place a Joint Fly Tipping Policy however, this policy aligns the statutory work and approach for those teams dealing with fly tipping such as the Joint Environmental Health Service and the Street Scene teams at both Councils to ensure that the most effective action possible is being taken to clear and deter fly tipping. The Policy replicates good practice and provides clarity for all.

### **5. Implications**

#### **5.1 Finance and Risk Implications**

5.1.1 The cost of removing fly tipped material in the District is significant and it is important that the respective Councils and other agencies continue to work in partnership to ensure that enforcement, cleansing and education actions to deal with fly tipping are effectively co-ordinated to deter this illegal act.

5.1.2 The Policy aims to provide a framework to ensure expectations can be managed and effectively delivered where appropriate and in line with our statutory duties.

5.1.3 From time to time the Council will incur cleansing and investigative costs associated with the removal of waste on privately owned land where such waste is deemed by an Officer of the Council to be hazardous or harmful to health or causing a public nuisance. In such situations extensive enforcement enquiries will have been undertaken to establish land ownership details and to identify those responsible for

the deposit of the waste but to no avail, it would harm the reputation of the Council to leave the waste in situ and it would also encourage further deposits.

**5.2 Legal Implications including Data Protection**

5.2.1 None arising from this report.

**5.3 Human Resources Implications**

5.3.1 None arising from this report.

**6. Recommendations**

6.1. That Cabinet approves the Joint Fly Tipping Policy May 2016.

6.2. That Cabinet approves an additional budget of £5,000, to be met from the Invest to Save Reserve in 2016/17, to clear fly tipped deposits on privately owned land in cases where such waste is deemed by an Officer of the Council to be hazardous or harmful to health or causing a public nuisance. It is proposed that this will be matched at Bolsover District Council and, following satisfactory performance and approval by Members, it would be built into base budgets in future years, subject to approval by Members.

**7 Decision Information**

<b>Is the decision a Key Decision?</b> (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	Supports the Councils Corporate aims of supporting our communities to be healthier, safer, cleaner and greener (July 2015)

**8 Document Information**

<b>Appendix No</b>	<b>Title</b>
Appendix 1	Joint Fly Tipping Policy – May 2016
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
<b>Report Author</b>	<b>Contact Number</b>
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# Joint Fly Tipping Policy

May 2016



## CONTROL SHEET FOR JOINT FLY TIPPING POLICY

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Joint Fly Tipping Policy
Current status – i.e. first draft, version 2 or final version	Final version (Review of BDC Policy - April 2011) May 2016
Policy author	Environmental Health Manager
Location of policy – i.e. L-drive, shared drive	S:Drive/Environmental Health/Strategy and Policy docs
Member route for approval	Strategic Alliance Joint Committee Executive (BDC) Cabinet (NEDDC)
Cabinet Member (if applicable)	Cllr Murray-Carr (BDC) Cllr Gordon (NEDDC)
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	Internal consultation
Final policy approval route i.e. Executive/ Council /Planning Committee	SAMT, Executive (BDC) Cabinet (NEDDC)
Date policy approved	
Date policy due for review (maximum three years)	May 2019
Date policy forwarded to Customer Service and Improvement (to include on Intranet and Internet if applicable to the public)	

Bolsover District Council and North East Derbyshire District Council are committed to equalities as employers and in delivering the services it provides to all sections of the community. Both Councils believe that no person should be treated unfairly and is committed to eliminating all forms of discrimination, advancing equality and fostering good relations between all groups in society.

 
<i>We speak your language</i>
<b>Polish</b> <i>Mówimy Twoim językiem</i>
<b>French</b> <i>Nous parlons votre langue</i>
<b>Spanish</b> <i>Hablamos su idioma</i>
<b>Slovak</b> <i>Rozprávame Vaším jazykom</i>
<b>Chinese</b> 我们会说你的语言
<b>If you require this publication in large print or another format please call Bolsover District Council on 01246 242424 or North East Derbyshire District Council on 01246 231111</b>

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## **1. Introduction**

- 1.1 Fly-tipping is the illegal dumping of waste and is a crime. All kinds of waste are fly-tipped, the most common being household waste. Other wastes that are fly-tipped include appliances like fridges and washing machines, waste from building and demolition work, animal carcasses, vehicle parts and tyres.
- 1.2 Hazardous wastes such as oil, asbestos sheeting and chemicals are also dumped illegally. The types of land most commonly affected by fly-tipping include land near to public waste tips, roadsides and private land, particularly on the outskirts of urban areas, in back alleys and on derelict land.
- 1.3 The Government has introduced a range of measures aimed at tackling fly-tipping, including the Clean Neighbourhoods and Environment Act 2005 and the Anti Social Behaviour (Crime and Policing) Act 2014 which gives regulators more powers to tackle fly-tipping and the courts the ability to impose tougher penalties.
- 1.4 Both Councils and the Environment Agency have powers and duties that largely complement each other in contributing towards the protection of the environment and enhancing the quality of life of local communities. Together, the Councils and the Environment Agency will endeavour to ensure that the full range of fly-tipping on public and private land is effectively dealt with by use of appropriate enforcement powers where necessary.

## **2. Scope**

- 2.1 Any public land or highway within the geographical boundaries of Bolsover District Council (BDC) or North East Derbyshire District Council (NEDDC) "The Councils" affected by the illegal deposit of waste. Public land includes roads, pavements, council owned land, parks, recreation areas, car parks and lay-bys which are the responsibility of the respective Council.
- 2.2 Any privately owned land within the geographical boundaries of BDC or NEDDC affected by the illegal deposit of waste. In such cases the responsibility for clearance of such land will be the land owner; however where fly tipped material is deposited on land which is in both public and private ownership, the Councils will collaborate with the land owner to facilitate its effective removal.
- 2.3 This policy will be considered in conjunction with any relevant Corporate and departmental enforcement policies

## **3. Principles**

- 3.1 This Policy supports the Councils Corporate aims of supporting our communities to be healthier, safer, cleaner and greener (July 2015) and the following priorities which sit under this aim:



- Ensuring a high standard of environmental maintenance and cleanliness
  - Working with partners to reduce crime and anti social behaviour
  - Developing attractive neighbourhoods
- 3.2 Illegal waste activities, such as fly-tipping, unregistered waste carriers, unauthorised transfer stations, landfill sites and other illegal waste activities are a criminal offence and are anti social, tackling these offences helps people feel safer and secure.
- 3.3 This Policy gives clear understanding to customers, Councillors and employees on the Councils responsibilities and what actions it will take in dealing with fly tipped waste on public and private land.
- 3.4 Fly-tipping reduces the quality and enjoyment of the environment and it can begin a spiral of decline in local environmental quality. It can cause serious pollution of the environment.
- 3.5 Fly-tipping also reduces the quality of life and can be a risk to human health and may harm wildlife and farm animals and can contaminate water courses.
- 3.6 Through raising awareness, education, use of Duty of Care and by ensuring better prevention and detection of fly tipping and other forms of illegal waste dumping, the Councils believe that incidents of fly tipping will reduce and less will need to be spent on clear-ups and enforcement action.

## **4. Statement**

In accordance with any relevant corporate and departmental enforcement policies, the Council will investigate and take appropriate enforcement action, against:

4. 1 Types of offences:
- a. Fly-tipping of quantities of waste up to and including a single tipper load of waste deposited at one time (i.e. up to approximately 20m<sup>3</sup> in a single deposit
  - b. Accumulations of waste from several small-scale fly-tipping incidents
  - c. Householders abandoning or dumping waste
  - d. Waste management operations that do not have the appropriate planning consent
  - e. Waste producers not complying with their Duty of Care
  - f. Waste producers who illegally dump or abandon their waste
  - g. Unregistered waste carriers and brokers (for example through organised vehicle stop checks)
- 4.2 Land types:

- a. Illegal dumping and fly-tipping of waste on public land including a road or other public highway.
- b. Illegally dumped or abandoned hazardous wastes on any land other than those which the Environment Agency deals with.
- c. Fly-tipped waste on private land or in watercourses that is giving rise to an adverse effect on the amenity of the neighbourhood or that is impeding the flow of water such as to give rise to an actual or imminent threat of a significant flood risk from an Ordinary Watercourse.
- d. Waste on domestic gardens, which has a detrimental effect on the quality of life of those in the locality.

#### 4.3 Service Standards:

- a. The Councils will ensure adequate collection arrangements for household refuse are in place including well-publicised arrangements for collecting bulky items. In particular, the Council will ensure adequate arrangements are in place for the collection of waste from flats above shops and from houses in multiple-occupancy. (For example, so that the waste is not placed on the street prior to refuse collection day in such a way as to be seen by the public as fly-tipping as this can attract other dumping and make the area look run down and dirty).
- b. Where ownership is known and where fly-tipping on private land has an adverse effect on the environment, the Councils will take steps to ensure that the waste is removed by the occupier or registered land owner and/or appropriate enforcement action is taken and costs recharged wherever possible, in accordance with the Council's enforcement policies.
- c. Where ownership is unknown and land is unregistered and there is no occupier or owner to take responsibility; the Councils, after taking all reasonable steps to determine ownership, shall take no action to remove the waste; unless, the waste is deemed by an Officer of the Council to be hazardous or harmful to health or causing a public nuisance. The Councils cannot take responsibility for the clearance of private land throughout the District and must take into account the law of trespass.
- d. The Councils will advise landowners or their representative of suitable measures to deter further fly-tipping and may get involved in the investigation of repeated incidents of fly-tipping to prevent further occurrences – possibly through partnership working with landowners, occupiers of land and the Environment Agency.
- e. In cases where the Councils will take action in accordance with the above paragraphs, they will aim to remove fly-tipped waste as quickly as possible to maintain the cleanliness of the area, discourage further fly-tipping at the same location and prevent waste causing pollution or harm to health. This will generally be within 24 hours for hazardous waste and within 5 working days for other fly tipped waste

- f. The Councils will enter data, regarding incidents of fly tipping and the number of enforcement actions taken, onto the national database as required. (Department for the Environment, Farming and Rural Affairs (DEFRA) *Waste Data Flow Returns*)

#### 4.4 Environment Agency:

- a. The Agency is a national organisation with a regional and local presence. As such it is well placed when tackling illegal waste activities to act across geographical boundaries that may present more of a difficulty for the Council. The Agency has the capability to respond to large scale illegal dumping or other waste crime via its hot-line 0800 555 111 or online at <https://www.gov.uk/report-flytipping> 24/7 and will report non-serious incidents to the Councils on the following working day.
- b. In general, the Agency will focus its resources on investigating and taking appropriate enforcement action against large-scale illegal dumping of waste, organised criminal involvement in waste crime and the dumping of certain special and hazardous wastes.
- c. The Agency regulates much of the waste management industry and major waste producing industries. It maintains a register of waste management activities that are “exempt” from requiring a licence or permit and it issues appropriate licenses, permits or authorisations to a range of waste managers including carriers and brokers of waste and those whose business it is to recycle or dispose of waste. Details of waste transfer licences holders can be found at <https://www.environmental-licenses.co.uk>
- d. The Agency will monitor and inspect waste management activities’, including carrying out enforcement action against both breaches of authorisations and illegal activities in line with its published Policies

## 5. Responsibility for Implementation

- 5.1 Contact Centres - Receive and process customer calls, signpost and provide information.
- 5.2 **Street Scene Services – Remove fly tipping from public land and provide** assistance in the wider education, awareness and enforcement arrangements. Also, they undertake removal of waste from an incident of fly tipping which is deposited over an area of land which is in both public and private ownership; and, where possible, look to recover costs from private landowners.
- 5.3 Joint Environmental Health Service – Respond to customer calls and enquiries, investigate fly tipping incidents, educate and raise awareness with the general public and businesses, enforce legislative powers and complete Waste Data Flow (Fly Tipping) Returns to DEFRA.

- 5.4 Planning Services (BDC and NEDDC) – Investigation and enforcement of respective legislative powers.

## **6. Review**

- 6.1 It is intended that this policy will be subject to review every three years with additional reviews as and when required to accommodate changes in legislation and local needs. The Councils will seek the views of stakeholders when undertaking such reviews.

## **7. Glossary of Terms, if applicable**

- 7.1 Main Rivers are watercourses designated as such on main river maps (held by the Environment Agency) and are generally the larger arterial watercourses.
- 7.2. Private Land – land which is in private ownership and is not owned or the responsibility of the Council
- 7.3 Waste Data Flow Returns – Statutory monthly returns that the Councils are required to submit to DEFRA on fly tipping incidents and enforcement action taken.

## **APPENDIX A – Indicative costs of waste removal**

The costs of clearing fly tipped waste can vary from site to site depending on the quantity of waste, the type of material and its location etc. A guide on likely Council costs for clearing fly tipped waste is as follows:

Hourly rate for Council vehicle and two workmen including disposal = £ 48.00

Indicative costs for removal of waste quantities (excluding hazardous) is:

<b>Amount</b>	<b>£</b>
Single black bag	12.00
Other single item	12 to 48
Car boot load or less	48 to 96
Small van load	96 to 192
Large van load	144 to 288
Tipper lorry load	192 to 384
Multi/significant	384 to 10,000