

**Wiltshire Council**

**Environment Select Committee**

**Date 23 April 2019**

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## **Fly Tipping Prosecutions**

### **Purpose of Report**

1. To provide information on actions taken in response to fly tipping during 2018-19 and to address other issues arising from the Executive Response to the final report of the Waste Contracts Task Group provided by the Cabinet Member for Highways, Transport and Waste presented to Environment Select Committee at the meeting held on 12 March 2019.

### **Background**

2. A Waste Contracts Task Group was established by Environment Select Committee and its terms of reference were endorsed by the committee at a meeting held on 16 January 2018. The council's plans to address fly tipping and littering were added to the terms of reference by the committee at its meeting held on 26 June 2018.

### **Main Considerations for the Council**

3. The Enforcement Team within Waste and Environment utilises covert cameras to deter possible fly tipping incidents, identify culprits and facilitate the enforcement of criminal investigations using any evidence gathered. Such camera operations are only conducted when all other options have been exhausted for example at locations where there have been multiple fly tips which are never witnessed and no evidence is ever found within the waste. These operations are generally located in very rural locations.
4. The use of covert surveillance for this purpose is strictly regulated under the Regulation of Investigatory Powers Act 2000 (RIPA). Any application for authorisation of covert surveillance must demonstrate that this would be proportionate to the case in hand, considering that all other methods of apprehending fly-tippers at a specific location have been exhausted.
5. Local authority authorisations are subject to judicial approval. This requirement means that local authorities need to obtain an order approving the grant or renewal of an authorisation from a judicial authority, before it can take effect. If a justice of the peace or magistrate is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, he or she will issue an order authorising the

use of the technique as described in the application. The surveillance cannot commence until this has been obtained.

6. In this context local authority means a district, county or unitary council in England or a London Borough Council. The role of town and parish councils is critical in addressing fly tipping through reporting incidents in their local area. This assists the council in identifying any evidence at the earliest opportunity. In addition the reports help to provide evidence that covert surveillance would be a proportionate response.
7. The table below sets out the number of enforcement actions taken during the period from 1 April 2018 to 31 March 2019. The total number of unique reports of 2,822 is lower than the figure for 2017-18 of 3,167, a fall of 10.9%.

| <b>Action</b>   | <b>Total</b> |
|---|--------------|
| Investigation   | 2,822        |
| Warning letter  | 149          |
| Statutory notice  | 78           |
| Fixed penalty notice                                      | 37           |
| Evidence seized   | 47           |
| Witness statement   | 32           |
| Invitation to interview                                   | 68           |
| Police and Criminal Evidence Act (PACE) interview         | 56           |
| Regulation of Investigatory Powers Act (RIPA) application | 1            |
| Duty of care inspection                                   | 17           |
| Stop and search   | 18           |
| Vehicles seized   | 0            |
| Formal caution  | 0            |
| Prosecution   | 1            |
| Injunction  | 0            |
| Duplicate reports   | 560          |
| <b>Total</b>  | <b>3,885</b> |

### **Safeguarding Considerations**

8. There are no safeguarding considerations arising from this report.

### **Public Health Implications**

9. There are no public health implications arising from this report.

### **Environmental and Climate Change Considerations**

10. There are no environmental and climate change considerations arising from this report.

### **Equalities Impact of the Proposal**

11. There is no equalities impact arising from this report.

## **Risk Assessment**

12. There are no risks arising from this report.

### **Risks that may arise if the proposed decision and related work is not taken**

13. There are no risks arising from the proposed decision.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

14. There are no risks arising from the proposed decision.

## **Financial Implications**

15. There are no financial implications arising from this report.

## **Legal Implications**

16. There are no legal implications arising from this report.

## **Options Considered**

17. The only option considered is to note the response.

## **Conclusions**

18. A significant amount of activity has been undertaken in response to the number of reports of fly tipping which the council received during 2018-19.

## **Proposal**

19. The committee is invited to note the information provided.

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## **Background Papers**

None

## **Appendices**

None