

Committee: **Community Services Scrutiny Committee**
Date of meeting: **28th February 2022**
Report Subject: **Fly Tipping Enforcement Activity 2021/22**
Portfolio Holder: **Cllr Joanne Wilkins [Executive Member, Environment]**
Report Submitted by: **Andrew Long Team Manager Frontline Enforcement Service**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
	10.02.22	15.02.22			28.02.22			

1. Purpose of the Report

The purpose of this report is to update Members on the Authority's enforcement activities in relation to fly tipping and other waste regulation offences and the level of fly tipping activity within Blaenau Gwent for the year 2021/22.

2. Scope and Background

- 2.1 The Authority has taken a robust and proactive approach to fly-tipping enforcement for over 15 years and the report will outline current issues and trends, local enforcement arrangements and outcomes, and how the Authority compares to other Welsh Authorities in these respects. The report also outlines the main offences relating to fly-tipping and the typical legal sanctions available.
- 2.2 Up until September 2021 Fly Tipping was regulated by Environmental Health in accordance with the provisions of the Environmental Protection Act 1990. Investigations into incidents of fly-tipping are conducted by two Enforcement Officers who also undertake other duties including stray dog collection and dealing with abandoned vehicles. These Enforcement Officers were appointed primarily on the basis of their practical enforcement experience, either being ex-Police Officers or having specialists' skills in surveillance and investigation techniques.
- 2.3 Since September 2021 a new Frontline Enforcement Team has been created embedded with the Community Services Section. This team has brought together the waste regulation work of the Enforcement Wardens (formerly Waste Wardens) who deal with domestic recycling compliance and the fly tipping work of the Enforcement Officers. Bringing these two areas of work together has enabled a more co-ordinated and integrated approach to dealing with illegal accumulations of waste, both in town centres and in more rural and semi-rural settings.

2.4 There are a number of legal sanctions available to the Authority to deal with waste offences and most of these are contained within the Environmental Protection Act 1990. The key powers and sanctions used by the Authority are set out below.

- Section 33. 1(a) Environmental Protection Act 1990 – This creates the offence of illegally depositing controlled waste - offenders can be prosecuted or receive a fixed penalty notice for £400
- Section 34. 2 (A) Environmental Protection Act 1990 – This creates the offence for householders of failing to carry out appropriate measures to ensure their waste is transferred to an authorised person- offenders can be prosecuted or issued with a fixed penalty notice for £300.
- Section 34. 1 Environmental Protection Act 1990 – This creates the offence for commercial operators of failing to transfer waste to an authorised person and failing to retain written records of that transfer- offenders can be prosecuted or issued with a fixed penalty notice for £300
- Section 46 Environmental Protection Act 1990 – This creates the offence for householders of failing to comply with the requirements imposed by the Local Authority in relation to the placement and storage of household waste, including recyclate material- offenders can be prosecuted or issued with a fixed penalty notice for £100.

2.5 For lower level, first time offences, a fixed penalty notice is normally the initial sanction that is imposed for the above offences and failure to pay this fixed penalty results in prosecution for the original offence.

2.6 Since September 2021 the Frontline Enforcement Team have expanded the use of Section 46 powers to deal with long term problems associated with householders disposing of their waste at unofficial waste collection points. These collection points often contain mixtures of residual and recyclate material meaning that home owners are often using them avoid the Authority's domestic waste collection rules. By utilising the powers in Section 46 to require householders to place their waste out for a collection at a specific location and time/date, there has been a significant reduction in these illegal accumulations of waste particularly in urban settings.

2.7 In November 2020 a closer working relationship was established between Environmental Health and Cleansing so that cleansing operatives were the first responders in relation to complaints about fly tipping. Training was given to specific operatives to enable them gather and retain evidence that might be present and a procedure put in place to enable this evidence to be presented to Enforcement Officers for further investigation where appropriate. This process has had a number of benefits. It has freed Enforcement Officer time to enable them to focus on criminal investigations, it has removed the need for multiple attendance by Local Authority officers

to fly tipping incidents and it has reduced the time needed to clear illegal waste deposits. This process is working well with multiple referrals coming through to the Frontline Enforcement Team on a monthly basis.

2.8 Tied in with this referral work and following discussion with the Authority's Legal Section, the Frontline Enforcement Team are now expanding the use of fly tipping fixed penalty notices to capture those offences where a lower level of evidence may be available. This expanded use of fly tipping fixed penalty notices will ensure greater numbers of notices are issued going into the future.

2.9 In June 2021 the Cleansing Section secured funding from Keep Wales Tidy for the procurement of CCTV surveillance equipment. The Frontline Team has now taken delivery of the majority of this equipment and is starting to deploy it to our frequent areas of fly tipping.

3. **Options for Recommendation**

Option 1 [Preferred] – Support the continuing waste regulation work and development of the Frontline Enforcement Service as outlined above.

Option 2 – Recommend changes to the waste regulation work carried out by the Frontline Enforcement Service.

4. **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

4.1 This proposal supports the amendments made to the Outcome Statements within the Corporate Plan in its review in October 2019.
Corporate Plan 2020/22 Outcome Statements:

- Protect and enhance our environment and infrastructure to benefit our communities
- Support a fairer sustainable economy and community
- To enable people to maximise their independence, develop solutions and take an active role in their communities
- An ambitious and innovative council delivering the quality services we know matter to our communities

5. **Implications Against Each Option**

5.1 ***Impact on Budget (short and long term impact)***

Service can continue to be run within existing budget under option 1.

5.2 ***Risk including Mitigating Actions***

Failure to enforce against waste regulation offences may give rise to an increasing in offending behaviour with a significant decline in environmental quality and reputational loss to the Authority.

5.3 ***Legal***

In terms of the preferred option the Council has the necessary powers to enforce the activity identified in the report and the services cover a range of statutory functions.

5.4 ***Human Resources***

The Frontline Enforcement Service is currently subject to a 6 month review following its establishment in September 2021.

6. **Supporting Evidence**

6.1 ***Performance Information and Data***

Since the 1st April 2021 to 14th February 2022, when this report was produced, the following waste regulation actions have been taken by the Authority.

- 65 files of recovered evidence received from Cleansing for further investigation by enforcement officers
- 11 fly tipping £400 fixed penalty notices issued. Further notices will be issued before the Scrutiny meeting on the 28th February 2022 and an updated figure will be provided then.
- 5 householder duty of care £300 fixed penalty notices issued
- 2 commercial duty of care £300 fixed penalty notices issued
- 10 warning letters issued to suspected fly tippers
- 2 prosecution files in preparation for 7 waste regulation offences
- 77 incidents of fly tipping on private land investigated
- 525 Enforcement Warden enquiries received
- 424 town centre fly tipping complaints investigated
- 79 1st stage warning letters issued for misplacing domestic waste at unofficial waste collection points
- 5 Section 46 notices issued for misplacing domestic waste at unofficial waste collection points
- 1 fixed penalty notices issued for misplacing domestic waste at unofficial waste collection points

6.2 Historically Blaenau Gwent has always been in the top half of the performance table for waste regulation enforcement outcomes for all Welsh Authorities. There was very little enforcement action taken during 2020/21 due to a diversion of staff resources to deal with Test Track and Protect and business regulation work associated with the Covid 19 pandemic. However, looking at the specific enforcement actions of prosecutions and fixed penalty notices for the last comparative year of 2019/20, Blaenau Gwent were eighth out of the 22 Local Authorities. The 18 fixed penalty notices issued for various waste regulation offences so far

this year would have resulted in prosecutions prior to 2017, when fixed penalty notices for fly tipping were introduced. On that basis 2021/22 has been the most successful year for Blaenau Gwent since this data has been collated.

- 6.3 It is intended that through the creation of the Frontline Enforcement Team, the expanded use of fly tipping fixed penalty notices and the other measures outlined in paragraphs 2.6 to 2.9, the figure for enforcement outcomes for 2022/23 will far exceed any historical annual activity.
- 6.4 Further comparative information on enforcement outcomes across Wales can be found on the following link [Number of fly-tipping enforcement actions by type \(gov.wales\)](#)
- 6.5 In relation to the number of fly tipping incidents recorded, Blaenau Gwent sits twelfth out of the 22 Local Authorities with 1661 incidents recorded in 2020/21. The highest number recorded was Cardiff with 6896 and the lowest Ceredigion with 134. In relation to neighbouring Authorities, Blaenau Gwent sits in the middle of the 5 within the Greater Gwent area, with Caerphilly and Newport both recording significantly higher numbers (2751 and 4060 respectively) and Torfaen and Monmouth significantly lower (857 and 749 respectively). Of course population rates vary across Authorities, but Merthyr Tydfil, an Authority with similar demographics and population to Blaenau Gwent recorded a higher number of incidents, 2096, across the same period. Table 1 below sets out the number of fly tipping incidents recorded across the County Borough in the last 5 years, with the 2021/22 full year figure extrapolated based on the first 3 quarters data. Further information on fly tipping incidents across Wales can be found on the following link [Recorded fly-tipping incidents by local authority \(gov.wales\)](#)

Table 1

Fly Tipping Incidents Recorded in Blaenau Gwent CBC

Year	2017/18	2018/19	2019/20	2020/21	2021/22
Number of Fly Tipping Incidents	995	1167	1327	1661	1298

- 6.6 **Expected outcome for the public**
Improved cleanliness and speed of addressing issues for the public and greater use of criminal sanctions for individuals committing waste crime.
- 6.7 **Involvement (consultation, engagement, participation)**
The quality of the environment is a priority of the community which has been demonstrated in many surveys and aspects of community.

- 6.8 ***Thinking for the Long term (forward planning)***
The creation of the Single Enforcement team will allow a planned approach to enforcement work with cohesive approach to waste regulation work across the Authority.
- 6.9 ***Preventative focus***
The Frontline Enforcement service will be utilising CCTV, proactively carrying commercial waste disposal checks and proactively targeting known unofficial domestic waste collection locations to reduce and prevent negative behaviours in the Community.
- 6.10 ***Collaboration / partnership working***
The role out of the new services has, and will continue to require collaboration across Council Services and will involve working with partners such as Keep Wales Tidy, the Police and the Community.
- 6.11 ***Integration (across service areas)***
The new Service in itself has integrated the Enforcement Warden function and elements of Public Protection Enforcement Activity.
- 6.12 ***Decarbonisation and Reducing Carbon Emissions***
The Council is committed to becoming a net zero Council by 2030 and the activity carried out within this service supports this aspiration.
- 6.13a ***Socio Economic Duty Impact Assessment***
- 6.13b. ***Equality Impact***
7. **Monitoring Arrangements**
- 7.1 It is proposed that annual reporting of waste regulation performance will be presented to Scrutiny.

Background Documents /Electronic Links

Number of fly tipping enforcement outcomes

[Number of fly-tipping enforcement actions by type \(gov.wales\)](#)

Number of Fly Tipping Incidents

[Recorded fly-tipping incidents by local authority \(gov.wales\)](#)