

Report for:	Overview and Scrutiny Committee
Date of meeting:	14th June 2022
Part:	1
If Part II, reason:	N/A

Title of report:	Environmental Enforcement & PSPO Performance Review 2021-22
Contact:	Cllr Julie Banks, Portfolio Holder for Community & Regulatory Services Emma Walker – Group Manager ECP Dawn Rhoden – Team Leader Operations/Co Author Ben Stevens – Lead Officer Environmental Enforcement/ Co Author
Purpose of report:	1. The purpose of this report is to give members a general summary of the work carried out by the Environmental Enforcement Team and the enforcement of the PSPOs 2. To show the 2021 – 22 performance of that fiscal period.
Recommendations	For information only
Corporate objectives:	Enhanced service delivery and consistency across all operational services.
Implications:	<u>Financial</u>
'Value for money' implications	Environmental Enforcement Team supports the Council in achieving Value for Money for its citizens.
Risk implications	N/A
Community Impact Assessment	N/A
Health and safety Implications	N/A
Consultees:	None
Background papers:	None
Historical	To give members a general summary of the work carried out

background <i>(please give a brief background to this report to enable it to be considered in the right context).</i>	by the Environmental Enforcement Team in 2021-22 with comparisons to previous year and other LA's
Glossary of acronyms and any other abbreviations used in this report:	EEO – Environmental Enforcement Officer PCC – Police Complaints Commission ECP – Environmental & Community Protection FTG – Flytipping Group OP's – Operations Team PSPO – Public Space Protection Order AV – Abandoned vehicle RVK – Registered vehicle keeper EP – Environmental permit FPN – Fixed penalty notice LO – Lead Officer LA – Local authority DE – District Enforcement

1. Purpose of Report

The purpose of this report is to give members a general summary of the work carried out by the Environmental Enforcement Team in 2021 - 22, performance in that fiscal period and future improvements to the service. This report will also detail the enforcement activity in relation to the Borough's Public Space Protection Orders.

2. Background/Environmental Enforcement Team

During 2021 – 22, the team has consisted of 2 full time permanent officers, 1 lead officer and 1 full time officer on a fixed term contract. Since 2020, the Lead Officer has been 'acting up' to recruit and implement the Covid Advisor Team and supervise their responsibilities through the Pandemic and Governments Covid 19 Road Map to recovery. This has meant that one of the Environmental Enforcement Officer's has also been 'acting up' to supervise the team on a day to day basis, creating the fixed term officer position as 'back fill'. This is still the current team structure and will remain so until September 2022.

Structure plan 2021 - 22;

Operations Team Leader

Dawn Rhoden

Environmental Enforcement Lead Officer

Ben Stevens

'Acting up' to manage the Covid Advisor Team

Environmental Enforcement Officers

Chris Briancon

Paul Coats

Abdullah Khalil (fixed term)

'Acting up' as supervisor

3. Main duties & responsibilities;

- Investigation and removal of abandoned & dangerous vehicles
- Investigation of fly-tipping offences
- Investigation of other waste crime including duty of care, commercial waste, waste transfer and other illegal disposal offences (burning & accumulations)
- Low level fly-tipping/littering offences

4. Abandoned Vehicles 2021 -22

2021 saw the introduction of a formal Abandoned Vehicle policy which brought in slight changes to the previous procedure. This policy has already improved the fairness, clarity and consistency in the investigation and removal of abandoned vehicles within the Borough. At the same time has given owners of such vehicles a reasonable period of time to make claim in the prescribed manner and therefore minimise the potential for complaints and reputational risk. This proposal received approval at Overview & Scrutiny Committee in June 21 and was then officially ratified by Portfolio Holder Decision.

Reducing reports - Although our Abandoned Vehicles webpage and reporting portal clearly states what factors are considered by officers when determining whether a vehicle is considered to be abandoned or not, we are reviewing the page to include further information and signposting to assist users in their decision making. Whether having read the guidance, to continue to report as an abandoned vehicle or not.

Abandoned Vehicle actions;

In 2021 – 2022 the enforcement team received and investigated 1553 reports of abandoned and/or dangerous vehicles that were made to the council. This figure is an increase on reports made in the previous year (1336).

Of the 1553 reports, 1508 cases were resolved and closed without any removal necessary, leaving a total of 45 cases where vehicles were removed and destroyed after investigation (2.89% of the total). This is a decrease on the total the previous year of 53.

5. Fly-tipping & Waste Crime

The Environmental Enforcement team investigate all reports of Fly-tipping and other waste crime within the borough, such as waste producer duty of care, commercial waste complaints, illegal burning of waste and waste on private land.

Fly-tipping is the deposit of controlled waste not in accordance with an Environmental Permit or to keep or dispose in a manner likely to cause harm to environment or human health. Where controlled waste is deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle can be held responsible. Persons committing offences for fly-tipping can be issued a Fixed Penalty Notice and/or be liable to prosecution - fine up to £50,000 and or up to 12 months imprisonment if found guilty (Magistrates) or an unlimited fine and up to 5 years (Crown).

The duty of care (Household Waste Duty of Care Regulations 2005) requires householders to take all reasonable measures available to them in the circumstances to ensure that they only transfer household waste produced on their property to an authorised person (outside of the council collection service). Householders can be issued a Fixed Penalty Notice and/or be liable to prosecution – fine up to £5,000.

- Environmental Enforcement Officers have the power to stop, search, seize and destroy vehicles if necessary. These powers are used in conjunction with the police, in joint operations.
- Environmental Enforcement Officers rely on witnesses, physical evidence, interviews under caution, surveillance, stop markers on vehicles, intelligence sharing & operations with Police to identify offenders
- Prevention; Signage/Publicity/Education & public awareness campaigns

6. Waste crime enforcement actions 2021 - 2022;

2021 -22 has been another difficult year in relation to fly-tipping prevalence and the number of reported incidents continues to be a significant problem for waste crime agencies, locally in Hertfordshire as well as nationally.

According to the Hertfordshire Fly-tipping Partnership, waste data flow flycapture shows that there were 15,798 recorded flytips in Hertfordshire, representing a 12% decrease across the County on last year's figure of 17,963. 6 authorities saw a decrease with an increase for the remaining 4 including Dacorum. In Dacorum there were 1587 reported incidents of fly-tipping, this is in comparison to 1470 in 2020 – 21, an increase of 8%. (Inclusive of Herts Highways data).

We continue to take a zero tolerance approach to environmental crime and in particular fly-tipping. Our Environmental Enforcement Officers work hard to assess and visit every reported incident of fly-tipping in the borough to evidence the fly-tipping and investigate, where possible, who was responsible for dumping it and/or where it has come from.

Following the conclusion of any investigation, the enforcement team will issue Fixed Penalty Notices where possible, or collect evidence for a larger prosecution if necessary. If fly-tipping becomes a regular occurrence at a particular location then officers will assess whether to make it a fly-tipping hot spot and will then consider further targeted enforcement interventions such as extra patrols, signage and/or surveillance.

In 2021 – 22 the enforcement team issued a total of 59 Fixed Penalty Notices for waste crime including 38 fly-tipping (amount £400 each) Fixed Penalty Notices, 5 duty of care offences (amount £312 each) Fixed Penalty Notices and 16 low level fly-tipping/littering Fixed Penalty Notices. This compares to a total of 60 Fixed Penalty Notices served in the previous fiscal year (44 fly-tipping, 5 duty of care and 11 littering).

In comparison to the other 9 LA's in Hertfordshire, Dacorum continues to be at the forefront in the issuance of waste crime FPNs in 2021 -22 and in recent years. In the last 4 years of full data recording, Dacorum has issued a quarter of all recorded local authority FPNs in Hertfordshire;

S33 & S34 FPNs - Historic record					
Authority	2018/19	2019/20	2020/21	2021/22	Total
Broxbourne	9	33	33	41	116
Dacorum	30	45	49	43	167
East Herts	11	30	37	47	125
Hertsmere	7	4	0	7	18
North Herts	5	18	27	25	75
St Albans	3	12	21	4	40
Stevenage	10	8	1	14	33
Three Rivers	9	8	6	4	27
Watford	23	19	3	10	52
Welwyn	3	5	16	5	29
Sub Total	110	182	193	200	685

Evidentially of the 59 Fixed Penalty Notices issued, 26 were the result of CCTV footage obtained, 15 from physical evidence found at the scene, 12 from surveillance footage obtained and 6 from witnesses.

The breakdown of FPNs in Dacorum by area;

FPN by Area/Ward	Flytipping	Littering
Watling	12	
Adeyfield West	2	
Grovehill	13	6
Woodhall Farm	1	2
Hemel Hempstead	3	3
Adeyfield East	1	2
Leverstock Green	2	
Boxmoor	1	
Northchurch	1	
Highfield	1	1
Chaulden	1	
Gadebridge	1	
Warners End	1	
Berkhamsted East	1	
Ashridge	1	
Tring East	1	2

The enforcement team successfully prosecuted 4 offenders of waste crime in 2021-22 in comparison to 1 waste crime prosecution in 2020 – 21. There was a total of £7421 (£1855 per case average) ordered in fines, £4816 (£1204 average) in costs and £358 (£90 per case) in victim surcharges.

NB. Costs are awarded to the Council once the court has collected everything, fines are paid into a general fund and the surcharges go towards victim support schemes.

This compares with an overall number of 17 prosecutions by LA's in Hertfordshire in 21-22 and an average of £1535 in fines and £771 in costs awarded across the Hertfordshire Fly-tipping Group.

Prosecution log					
2021/22	Prosecutions	Fine	Costs	Compensation	Victim Surcharge
Broxbourne	6	£6,990	£5,435.00	£379	£378
Dacorum	4	£7,421	£4,816	0	£358
East Herts	4	£740	£755	0	£140
Hertsmere	0	0	0	0	0
North Herts	0	0	0	0	0
St Albans	0	0	0	0	0
Stevenage	0	0	0	0	0
Three Rivers	3	£8,960	£2,355	0	£286
Watford	0	0	0	0	0
Welwyn Hatfield	0	0	0	0	0
HWP Sub					
Totals...	17	£23,811	£13,361	£379	£1,162

During 2021-22, the enforcement team obtained RIPA (Regulation of Investigatory Powers Act) authorisations for directed covert surveillance to be carried out in rural fly-tipping hot spots where evidence is harder to obtain. As a result, the enforcement team captured a large number of fly-tipping offences which resulted in 12 FPNs being issued and 2 prosecutions. A number of cases resulting from evidence secured by our surveillance cameras are ongoing with successful prosecution the likely outcome.

Other waste crime actions;

The team also issued 7 Community Protection Notice Warnings for waste accumulations on private land.

PCC Flytip victim support scheme – The enforcement team worked with a private landowner of the Borough, the National Farmers Union and Police and Crime Commissioner to process a successful claim for reimbursement of removal costs for a large flytip on their land.

Service Yards – The Environmental Enforcement team have developed new working relationships with landowners/occupiers of the 6 main Hemel Hempstead town centre service yards to regularly inspect, identify and take action to clear accumulations of waste.

7. Operational challenges

Covid 19 Pandemic – There was a profound increase in incidents of fly-tipping during the pandemic due to the various lockdowns. This was coupled with the Courts being initially closed and then a reduction in court proceedings for fly-tipping cases as the courts prioritised more serious matters. We are still experiencing the effects of the case backlog today.

Tracing of vehicles – We have seen an increase in the use of hired vehicles to commit fly-tipping offences in 21 – 22. This has made some investigations more complex and time consuming involving setting up additional data sharing agreements with data holders, further enquiries and serving of data protection exemption notices to relevant parties.

Drug related fly-tipping – We saw an increase in drug related fly-tipping especially in the north part of the district near to our border with Beds. These fly-tips consisted of waste from cannabis cultivation in large quantities. Our team have been actively working with Herts & Beds Police to tackle this problem. This has also been reported at Herts Fly Tipping Group meetings by other Hertfordshire authorities that border Beds.

Departmental pressures – Covid-19 also caused significant disruption to officers carrying out their normal duties with restrictions of normal working practice, officer absences/isolation, Covid related departmental reassignments/prioritisation and additional service pressure.

Court no shows – In 21 – 22, there has also been an increase in case defendants not appearing at Court for trials or hearings. As fly-tipping is an either way offence and can be tried as a summary offence or as an indictable offence, the defendant must be present. Upon request, the court can issue a warrant of arrest so they can be produced before the Courts. However, this is reliant on Police resources and cooperation with Herts Police and other forces such as the Met. The council also have to take additional measures so the case could be heard if the defendant is produced out of normal hours. This has resulted a number of our fly-tipping cases still not being heard despite the offences occurring some time ago and 4 warrants remain outstanding.

8. Public Space Protection Order and Littering Enforcement

Public Space Protection Order (PSPO) enforcement prior to the start of the District Enforcement pilot contract in November 2021 was carried out predominantly at organised enforcement days. The enforcement team issued 1 PSPO warning, 6 PSPO Fixed Penalty Notices and successfully obtained 3 prosecutions for breaches of the town centre PSPO.

The 12 month pilot contract with District Enforcement commenced on the 1st November 2021. As a reminder District Enforcement were contracted to enforce against patrol based observational offences including littering and breaches of our dog control, town centre and alcohol related PSPOs.

FPNs issued from 01 November 2021 to 31 March 2022;

Offence Type	Offence Type Count
Littering	1354
PSPO-Cycling or Skateboarding (PSPO)	280
PSPO-Dog Bags	15
PSPO-Dog Fouling (PSPO)	6
PSPO-Dogs Exclusion Zones	2
PSPO-Dogs on Lead by Direction	4
PSPO-Spitting (PSPO)	70
PSPO-Street Drinking	7
PSPO-Sweet Wrapper	1
PSPO-Urinating or Defecating	3

Total:	1742
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FPNs issued by Ward;

Ward	Ward Count
Adeyfield East	24
Adeyfield West	4
Aldbury and Wigginton	1
Apsley and Corner Hall	146
Bennetts End	6
Berkhamsted Castle	5
Bovingdon, Flaunden and Chipperfield	2
Boxmoor	5
Chaulden and Warners End	1
Gadebridge	5
Grovehill	1
Hemel Hempstead Town	1529
Highfield	4
Kings Langley	1
Leverstock Green	4
Nash Mills	2
Tring Central	1
Woodhall Farm	1
Total:	1742

Of the total 1742, District Enforcement have achieved a payment rate of 72% up to year end.

Of the total Fixed Penalty Notices issued, 192 FPNs have been challenged as a representation.

Of the Fixed Penalty Notices challenged, 65 FPNs have been accepted as representations and cancelled and 127 have been declined.

Dacorum Borough Council has successfully prosecuted the first batch of offenders who did not pay Fixed Penalty Notices issued to them by District Enforcement. On the 21st March 2022, using the Single Justice Procedure, all 9 defendants were found guilty at Berkshire Magistrates Court for offences of littering and breaches of our Public Space Protection Orders (PSPO). In total, defendants were ordered to pay Fines of £880, Costs of £800 and victim surcharge costs of £294.

District Enforcement are given monthly patrol/deployment targets which include areas in all wards depending on various factors and are categorised by frequency of visits. Achievement is monitored at monthly meetings. We also instruct on additional targeted deployment in response to specific complaints in relation to littering, dog fouling and other associated breaches of the Public Space Protection Orders.

Dacorum Borough Council receive a quarterly contractual income share of 22% from all paid FPNs. This income is placed in the Environmental and Community Protection general budget account.

Q1 income share (Nov 21- Jan 22): £14,774.40

The Council's contract specification requires social value to both educational and community engagement activities as well as enforcement.

In the first 5 months, District Enforcement have produced an environmental educational package for delivery to primary school children which has assisted and complimented the educational activity carried out by the Council's Environmental Awareness Team. District Enforcement are also working on another package which will be aimed at the lower secondary school age where we do have a link between secondary school pupils and littering at nearby newsagents and shops.

District Enforcement have been active in all wards engaging with members of the public, delivering leaflets to residents, meeting with residents to discuss their concerns and handing out dog poo bags and stubby pouches.

District Enforcement joined up with the Environmental Awareness Team and took part in the Great British Spring Clean. The team litter picked a large stretch of The Nickey Line and managed to collect 22 bags of rubbish (10 recycling & 12 refuse).

District Enforcement targeted our most popular sports fields & pitches at weekends in March due to reports of associated littering being left after fixtures. They attended areas in Hemel Hempstead, Berkhamsted & Tring. Although no FPN's were issued, did engage with clubs, teams and spectators and provided the public with leaflets, dog bags, and stubby pouches. They also posted leaflets to the surrounding houses to make the public aware that have been in that area.

District Enforcement have been working closely with Boxmoor Trust who have asked for assistance in dealing with issues of dog fouling, control and dogs worrying livestock. Upon request, have regularly patrolled these open spaces and engaged with dog walkers advising on responsible dog control and challenging irresponsible owners.

Planned activities for District Enforcement in 2022 – 23 include delivering educational packages to a number of our secondary schools, targeted activities at our parks and open spaces in the summer to promote responsible use of these spaces and to spend time in our rural wards to engage with members of the public and patrol for offences in our smaller villages and communities.

9. Moving forward in 2022-23;

District Enforcement pilot contract summary and review, will be coming to Overview and Scrutiny in September.

We will be working together with Clean Safe & Green and the Parks and Open Spaces Team to further target harden areas of open space within the borough that are vulnerable to unlawful encampments.