

Meeting:	Cabinet
Date:	19 <sup>th</sup> June 2008
Subject:	Environmental Crime Enforcement Policy
Key Decision:	Yes
Responsible Officer:	Corporate Director, Community and Environmental Services – Andrew Trehern
Portfolio Holder:	Portfolio Holder for Environment Services, Councillor Susan Hall
Exempt:	No
Enclosures:	Environmental Crime Enforcement Policy

## Section 1 – Summary and Recommendations

This report puts forward for adoption an Environmental Enforcement Policy for the principal environmental crime types of fly tipping, littering, graffiti and commercial waste provision and disposal (duty of care).

### **Recommendations:**

Cabinet are requested to:

1. Agree that the Enforcement Policy for Environmental Crime shown at Appendix 1 is formally adopted.
2. That the Policy is subjected to ongoing consultation and reviewed on an annual basis, with minor amendments agreed and incorporated on an annual basis in consultation with the Portfolio Holder.
3. That where significant amendment or review is required the Policy is brought back to Cabinet for decision.

**Reason:** To establish a formal policy for the enforcement of environmental crime. If Cabinet does not agree the recommendations this would result in a reduced opportunity to develop our response to tackling environmental enforcement, the delivery of key corporate priorities and expose the Council to risk through formal challenge.

## Section 2 – Report

### 2.0 **Background**

- 2.1 Every Local Authority is encouraged to have a fully documented Enforcement Policy that has been adopted by the Council. The Government has identified that Local Authorities need to have documented procedures and policies in place to ensure consistency and conformity of enforcement and has issued guidance in this respect. This Policy reflect that guidance and is intended to meet this need and act as the focus for enforcement actions carried out under the delegated authority granted by the Council. They are designed to reflect the content of the Enforcement Concordat that the Authority has signed up to.
- 2.2 The policy specifically covers Environmental Crime and assists officers in the decision making process when dealing with enforcement issues. It sets out a consistent approach regarding the use of formal and informal enforcement mechanisms to achieve effective and efficient compliance with relevant statutes.
- 2.3 The aim of the policy is:
- (a) To ensure that a consistent approach is maintained in deciding whether to use informal or formal means of enforcement to achieve consistent, fair, effective and efficient compliance with the relevant legislation, which is proportional to the risk to public health or contravention whilst minimising the burden to the public, local business and the authority.
  - (b) To provide Officers with guidelines to assist in the decision process when dealing with enforcement issues consistent with current government guidance in the relevant area of enforcement to ensure that enforcement action is taken in line with relevant guidance and Codes of Practice.
  - (c) To maintain the level of enforcement activity according to the standards of service laid down in the Service Standards and Performance Indicators Policy document.
  - (d) To ensure that enforcement is informed by the principles of proportionality in applying the law and securing compliance; consistency of approach, targeting of enforcement action and transparency about how the regulator operates and what those regulated may expect.
- 2.4 It is important to adopt measures that will ensure consistency and conformity while retaining an awareness of any particular local circumstance and to ensure that all sectors are treated fairly to ensure unnecessary burdens are not placed on business. The term enforcement action includes the full range of customer contacts and associated activity, from informal enquiry and contact, educational discussions, through service of informal letters and formal Statutory Notices, up to and including formal action in court.

- 2.5 The primary objective is to deliver a consistent approach to all activities, assist officers in the decision making process when dealing with enforcement issues and to set out a consistent approach regarding the use of formal and informal mechanisms at their disposal to achieve effective and efficient compliance with the relevant statutes. The aim is to ensure consistently high quality service in line with the corporate strategies.
- 2.6 In all cases the investigation of complaints, inspections and contravention's of legislation and the gathering of evidence in relation to these will be carried out in accordance with the relevant PACE codes of practice.
- 2.7 Within the last year the Government has established a Local Authority Better Regulation Office (LABRO). The work of LABRO is at an early stage and much detail is awaited on the nature of expectations on local authorities. Any changes necessary because of statutory and non-statutory guidance will be incorporated in revisions to the policy.

### **3.0 Options considered (statutory requirement for Executive-side reports)**

- 3.1 Best practice is for all enforcement activities to be covered by an enforcement policy and central government guidance expects every local authority to have a fully documented Enforcement Policy that has been adopted by the Council with documented procedures and policies in place to ensure consistency and conformity of enforcement.
- 3.2 This Policy documents reflect that guidance and is intended to meet this need and act as the focus for environmental enforcement actions carried out under the delegated authority granted by the Council. They are designed to reflect the content of the Enforcement Concordat that the council has signed up to.
- 3.3 The existing Community Safety Services policy fully meets the requirements of the Enforcement Concordat and existing enforcement activities are undertaken under the scope of the policy. However this specific policy is being proposed in the main areas of environmental crime as this:
- Demonstrates the Council's leadership in and commitment to environmental improvement within the borough.
  - Gives a clear statement of the Council's approach to enforcement.
  - Facilitates working with partners such as the Police on joint enforcement issues.
  - Provides a clear statement to the Council's enforcement officers on enforcement expectations.

The policy supports the work of the council and partner agencies, such as the Police in developing a consistent approach to enforcement and the deployment of resources. The policy sits alongside the other enforcement policies within the authority.

- 3.4 There is however no obligation on the council to adopt a formal enforcement policy for environmental crime and a decision could be made not to do so and to retain the current generic enforcement policy for all enforcement activities.

## 4.0 **Consultation**

- 4.1 There is no legal requirement for the Policy to be consulted on prior to implementation. The Policy will be reviewed on a minimum of an annual basis, based on operational experience, changes in legislation, relevant case law and feedback from stakeholders. Minor amendments will be agreed and incorporated in consultation with the Portfolio Holder. Where significant amendment is required the Policy will be brought back to Cabinet for decision.
- 4.2 Statutory guidance and good practice recommends that authorities allow for a well publicised lead in time to raise awareness within the business and resident community. A comprehensive promotional and awareness raising campaign will be undertaken through a managed communication strategy designed to raise awareness making full use of local media, Harrow website, information leaflets and published materials and partner agency publications.
- 4.3 It is also proposed that Members of the Council engage directly with the business and resident community through business seminars, enforcement visits and activities and visiting schools, colleges and community meetings to raise awareness. Any feedback received from these activities will be an integral part of the annual review process.

## 5.0 **Legal Comments**

- 5.1 There are no additional legal implications beyond those set out in the body of the report and the Policy document.
- 5.2 The adoption of a formal enforcement policy for environmental crime which dictates the legal procedures to be followed and provides a formally agreed policy to support enforcement decisions and action taken through the courts will serve to protect the Council to risks through formal challenge.

## 6.0 **Financial Implications**

- 6.1 The report is not seeking additional financial resources at this time and there are no financial implications relating to the agreement of the recommendations by cabinet.

## 7.0 **Equalities Impact Consideration**

- 7.1 There are no anticipated impacts on Equalities or Diversity, but as part of the ongoing consultation any impacts will be recorded, assessed and included as part of the evaluation of the policy.
- 7.2 The implementation of the enforcement policy will provide a standard process for enforcement action and be implemented across the borough and will apply equally to all people and businesses. The process will not target or exclude any person or businesses on the basis of ethnicity or any other factor. Training to support the implementation of the scheme will cover the importance of consistency during the enforcement procedure to ensure that no person is discriminated against on the basis of ethnicity.

7.3 Within the Policy all officers must have regard to:

(a) The Councils Corporate Policy on Racial Equality at all times in undertaking their duties and in the investigation of complaints, inspections and contravention's of legislation and the gathering of evidence in relation to these must be carried out in accordance with this policy.

(b) The provisions of the Human Rights Act 1998 at all times in undertaking their duties and in the investigation of complaints, inspections and contravention's of legislation and the gathering of evidence in relation to these must be carried out in accordance with this Act. The enforcement decision making process should have regard to the Checklist for Human Rights Convention Rights

(c) The provisions of the Data Protection Act 1998 at all times in undertaking their duties and in the investigation of complaints, inspections and contravention's of legislation and the gathering of evidence in relation to these must be carried out in accordance with this Act.

7.4 The provision of a policy also supports the delivery of equalities issues associated with fear of crime, such as reassurance of vulnerable communities and consultation with hard to reach groups. Implementation of the recommendations will serve to support delivery against the key equalities issues identified.

## 8.0 **Community Safety (s17 Crime & Disorder Act 1998)**

8.1 The content of the report and recommendations address the need for partner agencies to work together to develop and implement strategies to tackle environmental crime and the clear links to crime and disorder, ASB and fear of crime. The report makes direct recommendations relating to partnership working arrangements and activities that should be co-ordinated across agencies and implementation of these recommendation will serve to underpin the delivery of crime reduction strategy priorities, specifically the ASB and fear of crime priority, delivery of LAA stretch targets and BCS crime and as such directly support section 17 key objectives.

## 9.0 **Performance Issues**

9.1 The development of a detailed policy for environmental crime supports consistent enforcement standards. It will influence the achievement of measures related the environment and environmental cleanliness, including the Mori satisfaction survey, and support the delivery of a number of key BVPI's and National Indicators as listed below. However the policy will be one of many factors in the achieving higher performance.

9.2 Although there are no direct performance measures, BVPI's, or National Indicators the policy will indirectly impact on a number of key indicators as follows:

- National indicator 195 - Improved street and environmental cleanliness (levels of graffiti, litter, detritus and fly posting) - The delivery of the environmental crime enforcement policy will directly support enforcement of environmental crime and serve to support improvements in this area.

- BVPi 199a - Street and Environmental Cleanliness – litter/detritus. Current indicator: Performance currently “Needs prompt attention” (Red). The delivery of the environmental crime enforcement policy will directly support enforcement of environmental crime and serve to support improvements in this area.
- NI 199b Street and Environmental Cleanliness – graffiti. Current indicator: Performance currently “Excellent” (Green). The delivery of the enforcement policy will directly support enforcement of graffiti and act as a deterrent to support improved public realm response in this key area
- Flagship Actions – Deliver cleaner streets, better environmental services and keep crime low. Reference 1.7 – Tackle environmental crime and reduce fly-tipping, graffiti and litter through the work of the new Envirocrime Team. Measurement: Achieve the Gold Standard on the LGA Reputation Campaign in relation to Grot Spots in Neighbourhoods and Protecting the Environment. The enforcement policy will directly support the delivery of an enhanced enforcement regime through the Environmental Enforcement Team put in place and will directly support the work of the new team.
- Local Area Agreement Stretch Target, National Indicator 17 - Perceptions of Anti Social Behaviour (green) – These indicators have specific sub criteria relating to fly tipping, littering and graffiti which will be directly supported by the Policy.
- National indicators 24 and 25 - Satisfaction with the way the police and local council dealt with anti-social behaviour - These indicators have specific sub criteria relating to fly tipping, littering and graffiti which will be directly supported by the Policy.
- National Indicator 182 - Satisfaction of businesses with local authority regulation services – A key element of best practice is publishing a transparent enforcement policy and consistency of enforcement action. This will be directly supported by the Policy.

9.3 There is no direct impact in terms of the key lines of enquiry for CAA but the Policy will provide direct evidence to support the delivery of key corporate priorities relating to improving environmental conditions, the provision of open and transparent services and support key BVPi’s and national indicators.

## 10. **Risk Management Implications**

10.0 Risks associated with enforcement activities are low and chiefly are the risks of appeal against enforcement action. The development of a detailed enforcement policy for environmental crime supports consistent decision-making and enforcement standards and minimises the risk associated with enforcement activities.

### Section 3 - Statutory Officer Clearance

Name: Sheela Thakrar



on behalf of the  
Chief Financial Officer

Date: 22/05/2008

Name: Helen White



on behalf of the  
Monitoring Officer

Date: 22/05/2008

### Section 4 – Performance Officer Clearance

Name: Andrea Durn



on behalf of the\*  
Divisional Director  
(Strategy and  
Improvement)

Date: 22/05/2008

### Section 5 - Contact Details and Background Papers

#### Contact:

Andy Appleby, Service Manager – Public Realm Enforcement, Community Safety Services, Urban living, 020 8736 6240 [andy.appleby@harrow.gov.uk](mailto:andy.appleby@harrow.gov.uk)

Gareth Llywelyn-Roberts, Head of Community Safety Services, 020 8736 6230, [gareth.Llywelyn-roberts@Harrow.gov.uk](mailto:gareth.Llywelyn-roberts@Harrow.gov.uk)

#### Background Papers:

Cabinet Report: 15<sup>th</sup> March 2006 – Implementing the Clean Neighbourhoods and Environment Act 2005 (Summary of provisions and ALG agreed FPN fine levels.

Clean Neighbourhoods and Environment Act 2005 – available on the OPSI web site at: <http://www.opsi.gov.uk/acts/acts2005/20050016.htm>

Environmental Offences (Fixed Penalties)(Miscellaneous Provisions) Regulations 2006 (these regulations detail the levels of fixed penalties for a number of offences and other related provisions) – available on the OPSI website at: <http://www.opsi.gov.uk/si/si2006/20060783.htm>

Explanation of the Clean Neighbourhoods and Environment Act's provisions:

[http://www.opsi.gov.uk/acts/en2005/ukpgaen\\_20050016\\_en.pdf](http://www.opsi.gov.uk/acts/en2005/ukpgaen_20050016_en.pdf)

The Cautioning of Adult Offenders. Home Office. Circular 30/2005, 15<sup>th</sup> June 2005. ([www.homeoffice.gov.uk](http://www.homeoffice.gov.uk))

Code for Crown Prosecutors. November 2004 ([www.cps.gov.uk](http://www.cps.gov.uk))

Regulation of Investigatory Powers Act 2000 and code of practice on the Act ([www.homeoffice.gov.uk/ripa](http://www.homeoffice.gov.uk/ripa))

Code of practice B to the Police and Criminal Evidence Act 1984 (s.60(1)(a) and s.66) (<http://www.homeoffice.gov.uk/pcrg>)

Data Protection Act 1998 and the Freedom of Information Act 2000. (Department of Constitutional Affairs, [www.dca.gov.uk](http://www.dca.gov.uk)).