

Report to: Neighbourhoods Select Committee

Date of meeting: 19 March 2019



Subject: Environment & Neighbourhoods Enforcement Activity 2018

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Recommendations/Decisions Required:

That the Environmental Enforcement Activity Report for the period 2018 be noted.

Environment & Neighbourhoods Enforcement Activity 2018

Summary

This report is a summary of the enforcement activity carried out by the Council's Environment & Neighbourhoods (EN) team in 2018 (i.e. for the period 1 January 2018 to 31 December 2018) compared with the same period in 2017.

Fly-tipping issues currently require the most attention by officers in the EN team, with officers involved in the investigation and arranging clearance of deposits. We recorded 2606 incidents of fly-tipping in 2018 compared with 2431 incidents in 2017.

£4,236.80 of financial penalties were imposed on offenders through prosecution action in 2018. Twelve fixed penalty notices were also paid, amounting to an additional £2,540.

Noise complaints continue to make up the majority of the rest of the workload, with a peak in summer months. Loud music and barking dogs are the primary cause of complaint. However, we regularly receive complaints that appear to relate to normal living noise that neighbours can hear due to poor sound insulation. For cases with poor sound insulation that do not involve unreasonable behaviour, no formal nuisance action can be taken. We aim to resolve issues informally wherever possible and we will carry out simple noise tests to help those making noise understand what is acceptable. However, four formal notices were served to control excessive noise in 2018. Incidents of noise nuisance are often linked in with other anti-social behaviour (ASB) and can be quite challenging for officers dealing with vulnerable victims and perpetrators, who often suffer from mental health issues and/or addictions.

The team investigates **other neighbour nuisance issues, such as smoke, dust, odour, dog fouling, litter and light nuisance**. Taxi and other licensing issues are also investigated by the team, with regular late-night checks carried out.

The EN team additionally respond to **unauthorised encampments** on EFDC land, completing the eviction process for the Council if necessary and provide expert noise advice on planning applications and are statutory consultees on licensing issues regarding public nuisance control.

The Team

In the review period, the EN team was made up of seven Environment & Neighbourhood officers (ENO) and an Environment & Neighbourhood Manager. This has now changed under the Council's service re-structure, which has resulted in the manager being appointed as a Service Manager for Community Resilience. An interim arrangement is currently being put in place which will see one officer work as a Senior Officer.

Each ENO is responsible for investigating all incidents in a specific geographical area of the district, although officers will work in all areas as required by workloads. The district is subdivided into three main areas (based on workloads) East, West and South and then further subdivided into East 1 & 2, West 1, 2 & 3 and South 1, 2 & 3.

The team are responsible for providing the Council's "out of hours" noise service and provide a duty call out officer for every day of the year. The duty noise officer is available to respond to all noise calls up to midnight. After midnight a restricted emergency service is available for premises on an emergency call-out list, requests from the police and premises where three or more complaints are received.

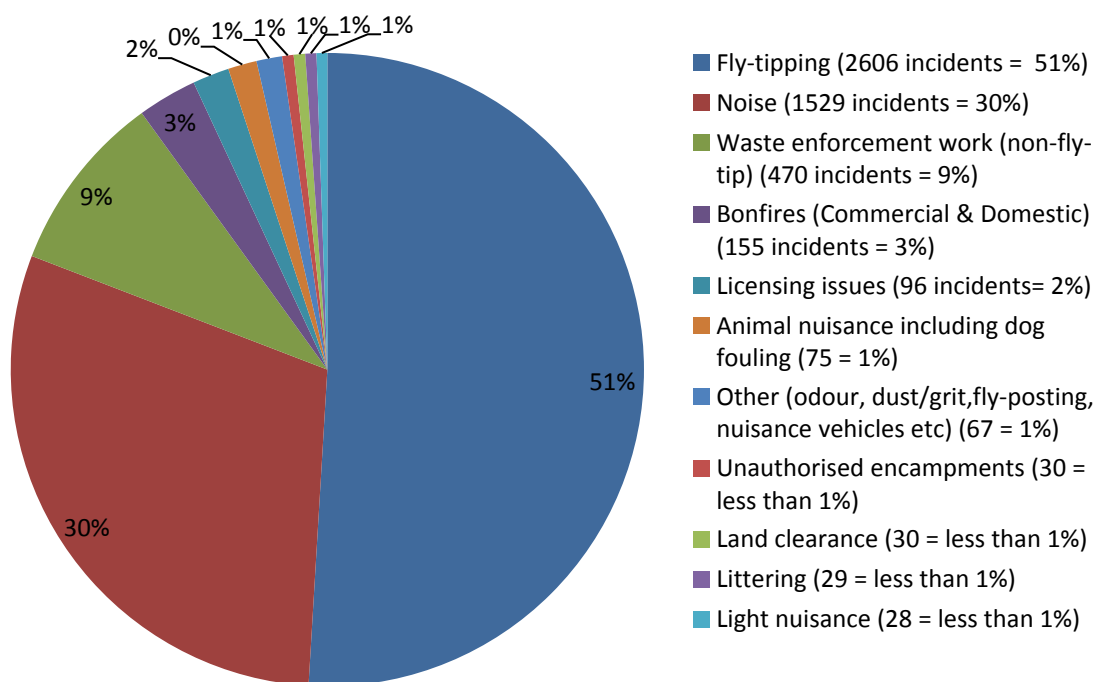
Table 1: Incidents logged to the Environment & Neighbourhood team 2017 & 2018

Year (12 months data) 1/1 to 31/12	Year			
	2018	2018%	2017	2017%
Fly-tipping	2606	51	2431	51
Noise	1529	30	1412	30
Waste enforcement work (non-fly-tip)	470	9	497	10
Bonfires (Commercial & Domestic)	155	3	164	3
Licensing issues	96	2	91	2
Animal nuisance including dog fouling	75	1	66	1
Other (odour, dust/grit, fly-posting, nuisance vehicles etc)	67	1	50	1
Unauthorised encampments	30	<1	11	<1
Land clearance	30	<1	32	1
Littering	29	<1	29	1
Light nuisance	28	<1	17	<1

Notes: % refers to the % of incidents logged that year. The breakdown of percentage of incidents per year has remained virtually the same, with fly-tipping and noise increasing slightly in number of incidents in 2018 compared with 2017.

Breakdown of complaints/incidents 2018

Environment & Neighbourhoods incidents 2018



Notes: In 2018, there were 2606 fly-tipping incidents logged, accounting for 51% of the total incidents logged to the EN team. For the same period 1529 noise complaints were logged (30%). The number of fly-tipping incidents refers to individual incidents of fly-tipping. Other incidents logged include some multiple complaints about the same issue. For example, five households complaining about the same noisy event would be logged as five incidents. Although there are 30 unauthorised encampment incidents this relates to approximately 12 encampments on different sites.

Commentary on specific enforcement activities

1. Fly-tipping

1.1 All incidents of fly-tipping reported to the Council are recorded. Incidents that may have some evidence to trace the source of the waste or fly-tipper are passed to the EN team to investigate. These are then prioritised and investigated if possible, prior to clearance. There were 2606 fly-tipping incidents recorded in 2018 (compared with 2431 in 2017 and 2231 in 2016).

1.2 There has been a steady increase in fly-tipping in the past three years. The size of fly-tipping incidents can vary considerably from a few household bags of waste to industrial sized organised fly-tips. Consequently, the type of offender can vary enormously ranging from local residents mismanaging their own waste to organised criminal fly-tippers. Somewhere in between these two extremes we have commercial waste fly-tips that can perhaps best be described as “a man in van”, either tipping their own commercial waste or operating a waste collection service and tipping any waste they have collected. “Careful” fly-tipping is a new phrase that is being used to describe waste tipped by residents near to where they live. This may be as simple as leaving waste on or near a bin store, not in compliance with the Council’s waste collection procedures e.g. bulky waste such as a fridge or a mattress will not be collected unless the item is booked in for collection and a small fee paid.

1.3 The Environment & Neighbourhood team continue to pursue fly-tippers through the courts and have also offered seven fixed penalty notices (FPN) of £200 for several less significant fly-tips, resulting in an income of £1,400. Five FPN have also been issued for related waste duty of care offences (FPN £300 discounted to £180 if paid within 10 working days), when alleged offenders have failed to provide documentary evidence to show that their waste was disposed of correctly, resulting in an additional £1,140 of penalties.

1.4 Details of prosecutions are published in the Council Bulletin and summarised at Appendix A. In 2018 there were three fly-tip prosecutions (offences included depositing waste illegally and associated waste duty of care offences) resulting in a total of fines and costs amounting to £4,236.80. In June 2018, one resident accepted a formal caution for fly-tipping waste in a commercial waste bin, to avoid their disposal costs.

1.5 To educate and act as a deterrent, press releases were issued for each case resulting in some local press coverage. Prosecutions were also highlighted as part of the Essex wide “Crime Not to Care” campaign discussed later in this report. The EN team currently have ongoing investigations from 2018, with two cases pending court action after the alleged offenders failed to attend court. Warrants have been issued for their arrest.

2. Noise

2.1 Most noise complaints are resolved informally after the intervention of the EN team. Indeed, the EN team work hard to provide advice and informally resolve noise complaints wherever possible. Witnessing the noise, serving a noise abatement notice and prosecution for non-compliance are the last resort. There were 1529 noise incidents in 2018, compared with 1420 noise incidents registered in 2017 and 1383 in 2016. The trend is towards a slight yearly increase. We expect a similar level of complaint in 2019.

2.2 In 2018, three noise abatement notices were served on the following premises due to noise from loud music and shouting and screaming.

- Willingale Road, Loughton, Essex, (2 notices)

- Powell Drive, Waltham Abbey
- Welsh Harp, Market Square, Waltham Abbey

2.3 One prosecution for a breach of an abatement notice (in relation to loud music), was concluded in 2018. The alleged offender failed to engage with the EN team. On 11 October 2018, Victoria Lawn of Brickenden Court, Waltham Abbey was prosecuted for five offences of breaching the requirements of a noise abatement notice served on her on 3 October 2017 requiring her to not cause a statutory noise nuisance to her neighbours due to playing music and any other amplified sound. The offences occurred on 4 January, 20 February, 15, 23 and 26 May 2018. Ms. Lawn failed to attend at the court for a second time and the offences were proved in her absence. The Magistrates imposed a fine of £180. She was also ordered to pay a contribution towards the Council's prosecution costs of £150 together with a Victim Surcharge of £30. The EN team are happy to report that no further complaints about noise have been received.

2.4 In August 2018, the owners of a public house in Loughton accepted formal cautions for breaching a noise abatement notice served in 2015 regarding loud music. They also accepted a caution for breaching a requirement of their premises licence for failing to comply with a condition designed to control noise.

2.5 In December 2018, an EN officer had to use powers available to immediately disable a misfiring intruder alarm, after it was established that the owners of a domestic property were on an extended holiday and no keyholders were available to turn off the mis-firing alarm.

The neighbouring resident was quick to thank us for the action in an email:

“Just a quick note to say thank you for arranging for our neighbour's alarm to be disabled last Thursday. We are really grateful for how serious you took it and how quickly the situation was resolved - we were worried we would have to listen to that alarm going off until Christmas (or worse - beyond!!!)”

2.6 It is increasing unusual for the noise team to have to disable mis-firing intruder alarms, as technology in alarms has improved, which limits the number and duration of any mis-firing alarms. It is also possible with much greater use of mobile phones to contact somebody who can gain access to the property (in a relatively short time frame) and turn off the alarm.

2.7 The out of hours noise service continues to provide residents with the opportunity to contact the duty noise officer all year, 24 hours a day (if included on the emergency register) when incidents are occurring, so that we can visit and witness the incident first hand. We aim to respond in 15 minutes of being contacted and visit within 1 hour if a visit is deemed necessary.

3. Unauthorised encampments (UE)

3.1 Unauthorised encampments that arrive in the area generate a lot of concern from residents and general dissatisfaction that the UE is preventing the normal use of the land. Some UE do try to manage their impact on the land they camp on, but many result in fly-tipping, littering, noise and other complaints of anti-social behaviour.

3.2 Work on UE is prioritised by the EN team. All UE on EFDC land will receive a visit on the first working day, so that the process of eviction can be commenced as soon as possible (any consideration of tolerance of the encampment is then looked at later in the process and will not delay any eviction). A delay caused by court availability for a possession hearing is normally the controlling factor in the speed of the eviction process at this point. The delay in court availability can result in a hearing two to three weeks after the UE first arrived. The EN

team will monitor sites and respond to any allegations. The EN team then liaise with the police to assess if the police are able to use powers (s.61) that they have available to evict UE instead of waiting for the possession proceedings to run their course.

3.3 In 2018, the EN team were involved in investigating UE on approximately twelve sites. Thirty incidents/concerns were registered with the team regarding the UEs (although this is under-reporting of the actual number of telephone calls and emails we receive from concerned residents). EN officers have started the eviction process in 2018 but the police have then used s.61 powers to evict the UE immediately, or the UE have chosen to move on before further formal action was taken.

3.4 There were several encampments on private land that the EN team monitored and provided advice to landowners. In addition, the EN team have responded to several complaints about individuals sleeping in vehicles, primarily as a temporary measure for the purposes of commuting to work in London.

4. Taxi/licensing enforcement

4.1 The EN team continue to carry out regular late night/early morning inspections of taxis at weekends, to ensure taxis licensed by EFDC are operating correctly and to deter illegal unlicensed taxis operating in the area. The inspections mostly identify minor issues that can be corrected on the spot or followed up the next working day.

4.2 However, one late night inspection on 25 March 2018, at an unofficial Hackney Carriage Taxi rank outside Buckhurst Hill Underground station resulted in Mr Ashuque Ahmed of Dalkeith Road, Ilford, Essex being fined £346 with costs of £300 and a victim surcharge of £34 after he pleaded guilty at a hearing in Chelmsford Magistrates Court on 11 October 2018, to plying for hire in an unlicensed taxi. Checks revealed that the Hackney Carriage licence for the vehicle being driven by Mr Ahmed had expired on 27 February 2018 and had not been renewed. Because of this action, the Hackney Carriage driver's licence held by Mr Ahmed was also suspended and he surrendered it back to the Council without appealing the Council's decision.

4.3 In June 2018, a shop owner in Buckhurst Hill accepted a formal caution for selling alcohol after the hours permitted by his licence, despite previous warnings.

5. Other enforcement work of note

5.1 The EN team are starting to use Community Protection Warnings (CPW) that can lead to a **Community Protection Notice** (CPN) if not complied with, for a range of issues. The test for formal action is wide ranging, potentially allowing a lot of unreasonable behaviour to be controlled, with a potential for a fixed penalty, prosecution and/or works in default of a CPN.

5.2 The test is that "The conduct of an individual or body is having a detrimental effect of a persistent or continuing nature on the quality of life of those in the locality and the conduct is unreasonable."

5.3 Officers are in the process of serving our first CPN regarding the impact of cannabis/offensive odour. Two CPN's have been served to require dirty gardens to be cleared and in one case, works carried out in default of the notice to clear a front garden of a large pile of accumulated waste. A CPW has been served to control dogs straying and fouling and a large accumulation of dog waste to be cleared.

5.4 We envisage that the CPW/CPN process will see greater use in the future, to help us control issues that we currently investigate and help with issues that in the past the legislation has been difficult to use to control the behaviour e.g. the impact from cannabis odour.

5.5 The potential wide scope of the legislation has been criticised by some liberty groups, but the CPN has an official appeals process with the court and we will continue with our attempts to resolve issues informally wherever possible, before we consider pursuing breaches of any CPN.

6. Crime not to Care Campaign & Buy with Confidence Scheme

6.1 Although this report concentrates on enforcement action, as part of our enforcement role the EN team aim to be proactive and educate residents and businesses to avoid causing environmental/nuisance issues and comply with the law.

6.2 Aware of the difficulties of catching fly-tippers in the act of tipping, officers have participated in an Essex wide “Crime not to Care Campaign” in partnership with the Cleaner Essex Group (CEG) and Keep Britain Tidy. The aim of the campaign was to try and raise awareness of household duty of care responsibilities, so that residents comply with the law, keep waste out of the hands of rogue traders and hopefully provide evidence to assist us in tracing fly-tippers.

6.3 The CEG produced a series of social media friendly films as part of advertising the message. These films are available to view and share on the Council’s YouTube channel at [#crimenottocare](#).

6.4 In addition, on a day of action, EN officers visited sites across the district where it appeared that waste needed to be collected and could attract a “man in van” cold calling offering waste services. Officers spoke to occupiers and workmen to provide advice on complying with their duty of care to avoid rogue traders and fly-tipping.

6.5 The message from this campaign is now even more relevant to residents, as a new FPN (£200) has been introduced nationally for household duty of care offences. The message is simple, “Before handing your waste to somebody else to dispose of, check, consider and record to protect yourself”.



7. Buy with confidence

7.1 We are aware that it is very easy to obtain a waste carriers licence from the Environment Agency (£154 initially for 3 years on the register) and this is no barrier to rogue traders who are intent on fly-tipping.

7.2 In order to develop a list of trusted waste providers that we can direct residents to if they need to dispose of waste outside the Council’s collections procedures, we have been looking at using the Trading Standards backed “Buy with confidence” scheme with colleagues at Essex County Council. <https://www.buywithconfidence.gov.uk/>

7.3 Companies must pay a fee and submit to a Trading Standards audit to join the scheme. We had very little uptake from companies we contacted, only one company based in Waltham Abbey has joined. We then decided to offer subsidised entry, free to the first ten applicants, but this has still not attracted companies to sign up and submit to an audit.

7.4 We are due to meet in 2019 to discuss options going forward, but at this time, one must be concerned that the unwillingness to sign up for free with potential for extra work, is an indicator that these companies do not want to submit themselves to an audit and may be rogue traders intent on fly-tipping. Some companies have suggested that they are too busy already to handle the volume of work and do not need to join the scheme.

7.5 The EN team will continue to highlight the importance of complying with waste duty of care to help keep waste out of the hands of rogue traders and for residents and businesses to comply with the law and protect themselves.

8. Future enforcement work

Waste vehicle stop checks

8.1 In 2019 the EN team hope to continue to develop strong links with the EFDC funded police officers and increase the number and effectiveness of waste vehicle stop checks, with the potential to seize vehicles operating illegally.

“Wanted posters” and new guidance signs re “Careful fly-tipping”

8.2 The EN team have recently been targeting “Careful” fly-tipping, mostly by residents of the district, who tip waste in and around where they live. One bin store in Springfields, Waltham Abbey has been a hotspot for fly-tipping, despite warning signs and letters to residents.

8.3 We have now installed new large warning signs, with pictures, that show examples of “Careful” fly-tipping, to make it very clear that this is not acceptable. An article has also been published in Housing News. These signs have been installed on many Housing bins stores across the district.

8.4 Recently we have developed a “Wanted poster” showing CCTV images of alleged fly-tipping offenders that we have been unable to identify by normal means. Posters have been installed around the bin store in Waltham Abbey, resulting in several leads and four FPN being issued. It is very early days, but we have seen a drop in the level of fly-tipping in this area. A similar sign has now been used in Limes Farm, Chigwell. After two hours in place, this led to a name and address that officers are now following up.

Fly-tip prosecutions/FPN Fixed Penalty Notice?

8.6 Although we have achieved a total of 15 FPN prosecutions for fly-tipping offences and have two cases pending court action and several still under investigation from 2018, we are keen to increase these figures. Our reactive workload makes it difficult to make time for developing prosecution cases. We are looking at better prioritisation of cases and trying to release officers from reactive work on a rota basis, to provide time to develop some more complicated prosecution cases in a timely manner. As already mentioned, we are currently going through a re-structure of the organisation at all levels. We hope to retain the core of the existing EN enforcement team which we consider to be the minimum requirement to cover all the enforcement aspects the team are involved with.

8.7 Later this year, we will be asking members to consider the level set for littering and fly-tipping fixed penalties. Currently the FPN for fly-tipping is set at £200 by default, but members

can increase this up to a maximum of £400. This may seem a straightforward decision, but there are some interesting points to consider when setting the FPN level. For example, most FPN we offer are for relatively small fly-tips, (quite possibly one item e.g. a mattress) and in most cases when the offender has co-operated and admitted the offence. A FPN greater than £200 may seem excessive for these cases, especially for those on benefit or a low income? A £400 FPN would certainly act as more of a deterrent and allow the FPN to be used for a greater range of fly-tipping.