



**To/  
Councillor Cyril Anderson  
Cabinet Member for Community  
(Services)**

**BY EMAIL**

cc: Cabinet Members

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Scrutiny

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SPC/2022-23/6

10 January 2023

Summary: This is a letter from the Scrutiny Programme Committee to the Cabinet Member following the meeting of the Committee on 15 November 2022. It is about Fly Tipping. A formal written response is required by 31 January.

Dear Councillor Anderson,

### **Scrutiny Programme Committee – 15 November**

We are writing to you following our Scrutiny session, which focussed on a specific aspect of your cabinet portfolio responsibilities, namely Fly Tipping.

The Committee asked you about activities, performance, and progress in dealing with Fly Tipping, key headlines / achievements against objectives, and overall position. We thank you for attending the meeting and providing a detailed written report which the Head of Waste, Parks & Cleansing, Chris Howell, presented to the Committee. The report helped us to understand the Council's legal responsibilities, duties, and current procedures to deal with Fly Tipping, activities and action taken, both proactive and reactive, including preventative measures, monitoring, and removal underpinned by an approach that includes education, engagement, and enforcement. We thank the officers involved in dealing with Fly Tipping.

We appreciate Chris' assistance to the Committee, responding to the Committee's many questions about Fly Tipping operations. The Committee was able to explore this work and provide challenge on actions and performance, as well as future thinking.

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This letter reflects on what we learnt from the information presented, questions, and discussion. It shares the views of the Committee and highlights any outstanding issues / actions for your response - key issues are summarised below.

We decided to add this item to our work plan in part because at our Scrutiny Work Planning Conference earlier this year some Councillors raised some concern that Fly Tipping appeared to be managed / dealt with differently in different wards, however it was confirmed to us at the Committee meeting that there is a consistent approach to Fly Tipping and processes across the Authority. We heard that there may however be differences in response depending on the specific location of Fly Tipping and individual circumstances, to deal with it.

## **Enforcement**

We are aware that Fly Tipping is a criminal offence and punishable in a court of law, though understood that the introduction of Fixed Penalty Notices (FPNs) provided a useful and proportionate alternative to prosecution in small-scale Fly Tipping incidents. Thank you for providing some enforcement data. We explored the numbers of FPN's issued last year.

We asked about the changes in the law, on the horizon, which will enable the Council to issue FPNs for breach of duty of care for householders in relation to Fly Tipping, thereby introducing a 'lighter touch' alternative to prosecution, where appropriate, for managing indiscretions where householders are not dealing with their waste correctly. The Council will need to give thought to how this will be rolled out and implemented, and consider public consultation and engagement to ensure that this is well understood.

It was clarified that currently FPNs can only be issued in respect of commercial premises / businesses regarding Duty of Care, under Section 34 of the Environmental Protection Act 1990, and you reported that 34 such FPNs were issued between April 2021 and March 2022 although these would not be exclusively related to Fly Tipping. In accordance with the law, anyone who collects, keeps, transports waste has to have a duty of care. We noted that 5 FPNs were issued in the same period under Section 47, relating to Trade Waste, which were instances of Fly Tipping, having issued a total of 65 Statutory Notices to businesses.

It seemed to the Committee that there is a greater focus on issuing FPNs than seeking prosecutions through the Courts, than say neighbouring Councils, but asked for clarity whether it was a case of few prosecutions or simply little publicity. We heard that the Council may have a different approach to other Councils, with emphasis on education and engagement and prosecution being a matter of last resort. Clearly there needs to be a balance, and prosecution and wide publicity is an effective deterrent. We noted that the Council would publicise, where appropriate, details of successful prosecutions

in the press. We were told that a low level of Fly Tipping prosecutions can be credited to the success of the preventative work.

The Committee noted that only 1 FPN was issued between April 2021 and March 2022 relating to dog fouling, which we felt was a very low number given the amount of complaints dog fouling generates in our communities. We heard there are significant challenges to acting on such complaints and catching offenders to issue FPNs, given limited time and resources. We were told that the Council is reliant on those dog owners changing their own behaviour, but the Council is open to alternative ways of working in addressing dog fouling where proven to be cost effective.

The Committee also asked about enforcement capacity within the Council, e.g., the number of officers that have delegated powers to issue FPNs regarding waste, including dog fouling. We were told that there are seven officers who can issue FPNs in respect of Fly Tipping, and we asked you to confirm total numbers as it was indicated that there are other staff, e.g., within cleansing, who can also issue FPNs in respect of littering. Given the number of complaints Councillors routinely receive from residents about waste, littering and dog fouling we would appreciate information about the number of officers that we have able to issue FPNs, so that we can better manage public expectations across Swansea given actual capacity to deal with issues.

We discussed the use of CCTV cameras as a deterrent to Fly Tipping and providing clear evidence of offences to support enforcement action and prosecutions. Your report stated that the use of cameras has proved unsustainable in certain areas as cameras are located and stolen or destroyed. In addition, staff availability to view hours of recorded footage is often prohibitive. However, you stated that Enforcement Officers do work with Community Safety colleagues to deploy overt cameras where they are considered effective. An example was given at the meeting of a successful prosecution secured by footage from a camera that Councillors had installed in a troublesome back lane within their ward at low cost, using their Community Budget, which suggested it was cost effective to develop this approach with a programme of cameras to other areas. Your report suggested that this was not an effective way forward, but the Committee would ask you to look again and support future requests. Whilst we acknowledge there are issues, clearly there is a place for cameras in the fight against Fly Tipping and welcome further use / trials where it might be a helpful solution.

### **Fly Tipping Locations**

The Committee asked whether the problem of Fly Tipping across Swansea was greater in rural or urban areas, whether on public or private land. The Committee enquired whether information was publicly available that would tell us about the incidence of Fly Tipping in Swansea, where and when, etc?

We heard that instances of Fly Tipping are spread across Swansea, though noted that urban areas tended to see large scale Fly Tipping, compared to smaller scale Fly Tipping in the City Centre and urban centres. You reported that the Council has a list of hotspots which are regularly monitored, and measures considered where possible to discourage Fly Tipping. The Committee would appreciate you sharing the list of known Fly Tipping hotspots. We were also interested in the type of waste being found and were told that the Council maintained an 'incident log' to record the type of Fly Tipping. Can you also interrogate that log to provide us with some data about the main types of Fly Tipping waste and its occurrence, whether urban or rural.

### **Baling Plant / Civic Amenity Sites**

We discussed the cost of Fly Tipping and littering which you reported as approx. £2.7m per year to clear (inclusive of staff costs), though due to the amalgamation with street cleansing it is not possible to provide exact figures for fly tipped waste. We noted that all cleansing teams would deal with minor cases of Fly Tipping where possible or reported to the appropriate Team. Nevertheless, the Committee asked how this 'cost' compared to the income the Council receives in terms of commercial waste properly collected. You clarified that only the Baling Plant at Llansamlet currently processed commercial waste, which collected around £600-700k per year though there was of course a cost to processing the waste, which effectively meant no profit is derived.

We asked whether there was any correlation between the existing Civic Amenity Site provision to the incidence and type of Fly Tipping in certain areas, where the local Site does not take certain waste / recycling materials, e.g., wood can only be recycled at the Llansamlet site, and there are other materials that cannot be taken to all sites. We heard that there is no evidence of a particular Fly Tipping issue arising from certain services not being available at Civic Amenity Sites. Members commented that one undesirable consequence was more people are burning wood in the gardens and polluting the air.

Committee Members praised the effectiveness of the new booking system at the Llansamlet Recycling Centre, avoiding lengthy queueing / tailbacks into the site. We queried whether the system has affected usage given the element of pre-planning required of users, but you confirmed that this is not the case with usage back to pre-pandemic levels, with the site seeing a steady throughput of visitors, who are having a better experience.

## **Trade Waste**

The Council has previously had negative publicity about excessive waste being left by the side of refuse storage bins by retail/commercial premises around areas within and outside of the City Centre, which has created a Fly Tipping problem. The Committee was interested in the extent to which there is engagement with the Swansea BID Forum (Business Improvement District) or directly with new or existing traders / businesses to make sure they are fully aware of the process and procedures relating to the collection of their Waste/Recycling, to help avoid the problem.

We were told that much of the enforcement activity is around the City Centre, and as such there is regular dialogue between the City Centre Manger's Office, Enforcement Officers, and Cleansing Staff to tackle waste issues and, where able, to look at preventative work taking into account the cost / benefit, but it remains an ongoing challenge particularly in areas where there is a concentration of businesses selling food. Some of the focus has been along St. Helen's Road and areas of the Kingsway where there is a lack of storage within the premises themselves and there have been issues of waste spilling onto the pavements and in lanes, e.g., with the introduction of lockable bins and bin screens, which we welcome. The other issue is that businesses are not obliged to use the Council for waste collections, though we are still able to issue FPNs where there is a lack of duty of care. We would welcome in your response any further information about the activities to tackle waste / fly tipping issues along St. Helen's Road and what further preventative measures are being looked at.

## **Cleansing Ward Operative Team (CWOT)**

It was mentioned by some Councillors that they have had requests to the new Cleansing Ward Operative Team to clear Fly Tipping refused on grounds of safety, but have been left unclear as to how the problem will be dealt with. We asked you to clarify the process that Councillors and/or the CWOT should follow to resolve matters.

It was noted that whilst Councillors can report Fly Tipping to the CWOT, the Team is not equipped in the same way as Fly Tipping Teams, e.g., where machinery may be required or it is otherwise unsafe for them to deal with, but nevertheless they would be expected to provide assessment of the issue and feedback to the relevant Councillor(s) with advice about what action is being taken, such as the request being referred to the specialist Team or whether there is an issue in relation to it being private land. We recognised that safety was paramount, e.g., when there is waste on difficult terrain or in a challenging environment, and that sometimes the Council needs to bring in specialist agencies for the removal of Fly Tipping, e.g., Fire & Rescue Service, Natural Resources Wales.

We appreciate that it is early days for CWOT but as things develop, we agreed that Councillors would appreciate some form of reporting mechanism back to them, that will satisfy the desire for consistent feedback on requests made to CWOT, e.g., on a ward basis, perhaps every month showing meaningful update against requests for service, jobs complete, allocated days used / remaining, etc. We accept that you will want to avoid making this an onerous monitoring process that will take staff away from doing their work, and finding an effective IT solution. We acknowledged that you wanted to reflect on this and will give it consideration as part of a review of the CWOT operation allowing a few more months experience to see how things are working and addressing any other issues.

### **Your Response**

We hope that you find the contents of this letter helpful and would welcome comments on any of the issues raised within. Specifically, we would appreciate information, as described in the letter, about:

- a) how you plan to engage the public over the introduction of FPNs for breach of duty of care for householders in relation to Fly Tipping
- b) the number of officers that we employ that are authorised to issue FPNs regarding waste (including Fly Tipping, Litter, Dog Fouling, etc)
- c) Fly Tipping hotspots, including data from recorded incidents of the main types of Fly Tipping waste and whether occurrence in urban or rural areas
- d) any further activities to tackle waste / fly tipping issues along St. Helen's Road and what further preventative measures are being looked at, and
- e) the possibility of introducing a reporting mechanism that gives feedback to Councillors on service requests made to the Cleansing Ward Operative Team.

Please provide your response to these, and any other comments about our letter by 31 January. We will then publish both letters in the agenda of the next available Committee meeting.

Yours sincerely,



**COUNCILLOR PETER BLACK**

Chair, Scrutiny Programme Committee

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