

CITY AND COUNTY OF SWANSEA

NOTICE OF MEETING

You are invited to attend a Meeting of the

DEVELOPMENT CABINET ADVISORY COMMITTEE

At: Committee Room 5, Guildhall, Swansea

On: Wednesday, 20 July 2016

Time: 3.00 pm

Chair: Councillor Philip Downing

Membership:

Councillors: C Anderson, D W Cole, C R Doyle, P Lloyd, P M Matthews, P B Smith, C Thomas and T M White

AGENDA

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- 1 **Apologies for Absence.**
- 2 **Disclosures of Personal and Prejudicial Interests.**
www.swansea.gov.uk/disclosuresofinterests
- 3 **Minutes.** 1 - 3
To approve and sign the minutes of the previous meeting(s) as a correct record.
- 4 **Review of Flytipping.** 4 - 17
Ian Whettleton / Fran Williams
- 5 **Tree Policy.** 18 - 39
Martin Bignell
- 6 **Workplan.** 40

Next Meeting: Wednesday, 17 August 2016 at 3.00 pm



Huw Evans
Head of Democratic Services
Thursday, 14 July 2016

Contact: Democratic Services - (01792) 636923

CITY AND COUNTY OF SWANSEA

MINUTES OF THE DEVELOPMENT CABINET ADVISORY COMMITTEE

HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON
WEDNESDAY, 15 JUNE 2016 AT 3.00 PM

PRESENT: Councillor P Downing (Chair) Presided

Councillor(s)

C Anderson
P Lloyd

Councillor(s)

D W Cole
P M Matthews

Councillor(s)

C R Doyle
T M White

Officer(s)

Keith Coxon	Waste Management Projects and Performance Officer
Allison Lowe	Democratic Services Officer
Mark Thomas	Group Leader Traffic & Highway Network Management
Ian Whettleton	Divisional Officer Waste Management
Fran Williams	Team Leader Enforcement, Fly-tipping and Litter

6 **APOLOGIES FOR ABSENCE.**

Apologies for absence were received from Councillors P B Smith and C Thomas.

7 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

In accordance with the Code of Conduct adopted by the City & County of Swansea, no interests were declared.

8 **MINUTES.**

RESOLVED that the minutes of the Development Cabinet Advisory Committee held on 20 April 2016, Special Development Cabinet Advisory Committee held on 11 May 2016 and Development Cabinet Advisory Committee held on 19 May 2016 be approved and signed as a correct record.

9 **PEDESTRIANISATION OF WIND STREET.**

Mark Thomas, Group Leader Traffic & Highway Network Management provided an update on the methods to achieve the pedestrianisation of Wind Street.

The Development Cabinet Advisory Committee at its meeting on 20 April 2016 had requested that officers attend to agree a scope of the report, which would focus on how to deliver a pedestrianised Wind Street, the consequential effect on the highway network, access arrangements and to provide examples of successful pedestrianised streets in other cities.

The Committee discussed the various considerations and agreed that the most appropriate way to progress the scheme would be on a phased approach using an Experimental Traffic Order for a trial period of up to 18 months, with interested parties being consulted, within which time comments and suggestions are gathered, recorded and then considered, prior to formally finalising the scheme (sealing) with the arrangement becoming permanent.

RESOLVED that the report be noted.

10 **FLY TIPPING POLICY.**

Ian Whettleton, Divisional Officer Waste Management and Fran Williams, Team Leader Enforcement, Fly-tipping and Litter reported on the current policy and procedures in regard to Flytipping within the City & County of Swansea.

They outlined the priorities for Waste and Recycling within the Council's Improvement Plan, the definition and explained the current procedures for dealing with Flytipping. Discussions ensued regarding the various initiatives that had been undertaken.

The Committee thanked the Officers for an informative explanation of the current policy.

RESOLVED that a draft Fly Tipping Policy be presented to the Development Cabinet Advisory Committee on 20 July 2016.

11 **WASTE MANAGEMENT - RECYCLING SHOP.**

Keith Coxon, Waste Management Projects and Performance Officer attended to provide an update to the Committee on the financial arrangements in terms of income and expenditure in relation to the Re-Use Shop situated at the Baling Plant.

The facility was in the process of being extended, which would enable the Authority to consider a number of new initiatives to boost income, increase the throughput of goods and the extent of the community benefit the facility provided.

In addition, Cabinet would be considering the Commissioning Review: Waste Management at its meeting on 16 June 2016.

RESOLVED that an update on the Re-Use Shop be presented to the Development Cabinet Advisory Committee on 19 October 2016.

12 **WORKPLAN 2016-2017**

RESOLVED that:

- 1) The Special Committee scheduled for 6 July 2016 at 10 am focus on Open Spaces Strategy;

- 2) The Committee scheduled for 20 July 2016 receive the following items:
 - a. Draft Flytipping Policy;
 - b. Tree Policy.

- 3) The following items be considered at future meetings:
 - a. Feedback on visits to District Shopping Centres (second visit to Mumbles);
 - b. Housing Estates Containing Unadopted (Private) streets;
 - c. Civic Amenity Sites (Waste Management)
 - d. Update on Re-Use Shop (October 2016).

The meeting ended at 4.06 pm

CHAIR

Agenda Item 4

Report of the Director of PLACE / Cabinet Member for Environment and Transportation

Cabinet Advisory Committee – 20 July 2016

REVIEW OF FLYTIPPING Current Protocols and Procedures in place within the City and County of Swansea

Purpose	This document is not intended to be a policy document, it is a summary of the current procedures in place to deal with fly tipping.
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FOR INFORMATION

1. Introduction

- 1.1 The Waste Management Section has a duty to enforce a wide range of legislation including the Environmental Protection Act 1990 and the Clean Neighbourhood Act 2005. This covers aspects such as waste management duty of care, (flytipping) litter and dog fouling. Waste Management regards prevention as better than cure, it offers information and advice to those it regulates and seeks to secure co-operation avoiding bureaucracy and excessive cost. The 3 E's, Education, Engagement and Enforcement.
- 1.2 The purpose of this protocol and procedure document is to promote the enforcement message and to secure efficient compliance with legislation whilst minimising the burden to Parks & Cleansing, individuals, organisations and businesses. The information within this document is intended to be applied in a wide range of situations and it explains in general terms the approach adopted by Waste Management when carrying out the Council's enforcement duties.

2. Good Enforcement Practice

- 2.1 The City and County of Swansea, Waste Management section has adopted the Enforcement Concordat and looks to promote good standards of enforcement.
- 2.2 In addition, all officers will consider and follow the Code of Practice for Crown Prosecutors, issued by the Crown Prosecution Service, when taking decisions on whether to prosecute.

3. Human Rights Act 1998

- 3.1 In deciding to instigate enforcement action, particularly prosecution, officers will consider the rights and freedoms given to individuals under the Human Rights Act 1998, in particular taking account of Article 6, the right to a fair trial and Article 8 the right to respect for private and family life, home and correspondence.

4. Equal Opportunities

- 4.1 All officers undertaking enforcement duties will ensure that all recipients of the service receive fair and equitable treatment irrespective of their race, ethnicity, gender or disability. Equalities issues associated with enforcement will be monitored to ensure fairness.

5. Commitment to the Protocols and Procedures

- 5.1 The City and County of Swansea is committed to ensuring that all authorised enforcement officers carrying out enforcement work are trained and fully acquainted with the requirements of this document. All authorised officers must abide by this procedural document whenever making decisions on enforcement. Any departure from these protocols and procedures will be exceptional, documented, justified and approved by the Head of Service unless the delay in decision making would result in a significant risk to the public.
- 5.2 All authorised enforcement officers should be fully trained and authorised in those aspects of legislation relevant to their duties. The authority will ensure that officers are fully competent to carry out their duties and that the level of delegated authority for each officer has been approved.

6. Enforcement Principles

- 6.1 In enforcing any law, the City and County of Swansea recognises and affirms the importance of the following principles:

6.1.1 Standards

Waste Management's approach to litter, dog fouling, graffiti, and breaches in waste management duty of care (flytipping) is that prevention is better than cure. This involves actively working with residents, community groups and business, to advise and assist with understanding the law.

- We will provide a courteous and efficient service and our staff will identify themselves by name.
- We will provide a contact point and telephone number for further dealings with us and we will encourage recipients to seek advice or information from us, or a solicitor.

- We will ensure, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.
- We will provide information and advice in plain language on the rules that we enforce. We will be open about how we set about our work, and we will discuss general issues.

6.2 Consistency

6.2.1 We will carry out duties in a fair, equitable and consistent manner. Whilst officers necessarily exercise judgement in individual cases, we will have arrangements in place to promote consistency, including liaison with other authorities and enforcement bodies.

6.3 Proportionality

6.3.1 We will ensure that action taken relates directly to the actual or potential risk to health, safety, the environment or significant economic disadvantage to the consumer or business.

6.4 Transparency

6.4.1 We will ensure that the enforcement action taken by the City and County of Swansea is easily understood by individuals, organisations and businesses having to comply with legislation, and that clear distinctions are made between legal requirements and advice or guidance about what is desirable, but not compulsory.

6.5 Objectivity

6.5.1 We will ensure that decisions are not influenced by the gender, ethnic origin, religious or political beliefs or sexual preferences of the offender, victim, witnesses or any other person in receipt of the department's services. Sensitive consideration will be given where persons involved are children, elderly, infirm or suffering from a mental disorder.

7. Enforcement Options

7.1 The Authority recognises and affirms the importance of achieving and maintaining consistency in its approach to making decisions that concern standards of enforcement action.

7.1.1 In making a decision officers will consider:

- The seriousness of the offence
- Any explanation offered by the defendant
- Any mitigating circumstances
- The previous relevant history, if any
- The likelihood of the defendant being able to establish a defence
- The ability of any important witnesses and their willingness to co-operate

- Whether other action such as the issue of a fixed penalty notice would be more appropriate or effective.
- The advice contained in the Code for Crown Prosecutors

7.1.2 Having considered all relevant information and evidence, one or more of the following choices for action are available to officers:

- Promotion
- No action
- Informal action
- Formal action which may include: Fixed penalty notice, statutory (legal) notices, Simple (formal caution), prosecution

7.2 **Promotion**

7.2.1 To raise awareness of documentation regarding anti social behaviour, and about legal standards and good practice. This is typically achieved by issuing of press releases, leaflets, and other forms of written guidance available to the public and businesses, authority web site and by face to face contact.

7.3 **No Action**

7.3.1 Where an investigation reveals that at the time of the visit, no offence has occurred or an offence has occurred but no offender can be identified.

7.4 **Informal Action**

7.4.1 This will be used to reinforce promotional activities and instances where, although the law may have been broken or a minor offence has been committed, it is not thought appropriate to take any other action. An informal action can be oral or written. In these instances, the enforcement officer will use their discretion but will be called upon to justify the exercise of that discretion.

7.4.2 When an informal approach is used, officers will ensure that any written documentation provided must:

- Contain all information necessary to identify the breach of legislation
- Indicate specific legislation contravened
- Clearly indicate any recommendations of good practice and explain that they are not legal requirements

7.4.3 Officers should always make clear, even when giving verbal advice, what are legal requirements as opposed to recommendations of good practice.

7.4.4 If it is believed that such a warning is inappropriate or unjustified, then this procedure allows for the decision to be reviewed by a senior officer.

7.5 Formal Action

7.5.1 Authorised officers will consider the use of formal action as appropriate and this action could be:

- (i) Fixed Penalty Notices – These may only be served/cancelled by authorised officers who are deemed to be competent, suitably qualified and experienced.

The following circumstances are likely to warrant the use of a fixed penalty notice:

- Officer has witnessed the offence
 - Officer believes there are “reasonable grounds” to consider an offence has been committed
 - There is a suitable witness or witnesses to the offence and the offender can be clearly identified
 - The alleged offender has not received a fixed penalty notice before, or has previously received no more than two notices in the previous twelve months
 - At present, in Wales, there is no fixed penalty notice option for dealing with flytipping
- (ii) Statutory Legal Notices – Many Acts of Parliament enforced by the Authority provide for the service of statutory notices, which require a person, business or organisation to comply with specific legal requirements. When a formal notice is served, the method of appealing against the notice (i.e. if you feel that the notice is unjustified or excessive in its requirements) will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and what will happen if the notice is not complied with satisfactorily.

In general, failure to comply with a properly written and served statutory notice makes the recipient liable to prosecution. In some cases the Authority is able to carry out works to comply with the notice and recover the costs of doing so from the recipient of the notice. In such cases, works will be carried out in default. In certain circumstances, it is possible to prosecute as well as serve a notice; failure to comply with the notice would be an additional offence.

- (iii) Simple (Formal) Cautions – Under certain circumstances, a Simple caution may be an alternative to prosecution and this will be considered prior to any decision to prosecute. A Simple caution is a serious matter and it is recorded on the Central Register of Convictions. It may be used to influence any decision, to determine whether or not to instigate proceedings, if the person should offend again and it may be referred to in any subsequent court proceedings. It will not be considered in respect of any offence committed more than three years prior to the caution.

The purposes of Simple (formal) cautions are:

- (a) To deal quickly and simply with less serious offenders

- (b) To avoid unnecessary appearance in criminal courts
- (c) To reduce the chance of offenders re-offending

Before issuing a caution, which will usually be administered by letter, the following conditions must be satisfied:

- (a) All cautions will be issued in accordance with Council procedures
 - (b) There must be evidence of guilt sufficient to give a realistic prospect of conviction
 - (c) The suspected offender must admit the offence, usually by signing a declaration
 - (d) The suspected offender must understand the significance of a formal caution and given an informal consent to the caution
 - (e) Should the offer of a formal caution not be accepted by a possible defendant, prosecution will be recommended to the Authority's Legal Department
- (iv) Prosecution – The Authority will use discretion in deciding whether to initiate Prosecution, but where the circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may take place.

7.5.2 Any decision to recommend prosecution will be the subject of peer review of all relevant evidence and information to enable a consistent, fair and objective decision to be made by the appropriate Head of Service.

The Authority will consider prosecution when:

- It is appropriate in the circumstances, as a way to draw attention to the need for compliance with the law and the maintenance of standards required by law, especially where there would be a normal expectation that a prosecution would be taken, or where, through the conviction of offenders, others may be deterred from similar failures to comply with the law: or
- Where there is the potential for considerable harm arising from the breach: or
- The gravity of the offence, taken together with the general record and approach of the offender warrants it.

7.5.3 The decision to prosecute will always take account of the criteria set down in the Code for Crown Prosecutors.

7.5.4 The Authority will also identify and prosecute or recommend the prosecution of individuals, including company directors and managers, if they consider that such a conviction is warranted and can be secured.

7.5.5 Before deciding to prosecute, there must be sufficient evidence for a realistic prospect of conviction, taking account of any defence that may be available, and it must be in the public interest.

7.5.6 The following public interest criteria will be taken into account when deciding on the relevance of legal proceedings, although this list is not exhaustive:

The prevalence of the type of offence:

- The need for a suitable deterrent
- The risk of danger or injury to the public
- The failure to comply with a statutory notice or respond to advice about legal requirements
- The disregard of legal requirements for financial reward
- Significant financial loss, potential or actual, to a third party
- Was the investigation the result of a complaint by a third party?
- A history of similar offences
- Persistent breaches of legislation
- Where fraud, gross negligence or guilty knowledge is a factor
- Minor breaches of a number of statutes

7.5.7 Where possible, an offender will be told as soon as sufficient evidence is obtained that a prosecution may follow.

7.5.8 All prosecutions will be brought without unnecessary delay.

8. Fixed Penalty Notices (as previously mentioned, there is no facility at present, to issue FPNs for flytipping in Wales).

8.1 On issue of the notice the recipient are given the opportunity of discharging any liability to conviction for the offence by payment of the fixed penalty notice within 14 days from the date of issue.

8.2 In the event of non –payment of a fixed penalty an offender will be notified in writing that if at the expiry of a further 14 days payment is not received, the matter will be referred to the local authority’s legal services and may result in a prosecution.

8.3 At present in Wales there is no FPN available for dealing with issues of Flytipping, however this is currently under review as the legislation has been made available in England in early 2016.

9. Application of procedures and protocols

9.1 All officers will refer to this document when making enforcement decisions.

9.2 It must be read in conjunction with relevant approved guidance on enforcement action. Regard must also be given to any relevant internal procedures. An easily accessible appeals procedure, including detailed guidance and a hotline for members of the public as detailed on fixed penalty notice forms and web site.

9.3 Any departure from this procedural document must be exceptional, capable of justification and be fully considered by the Head of Service before a final decision is taken. This proviso shall not apply where a risk of injury or to health is likely to occur due to a delay in any decision being made.

10. Review

10.1 It is intended that this procedural document will be subject to regular review, and changes introduced to accommodate new legislation and local needs.

OPERATIONAL PROCEDURES FOR THE REMOVAL OF FLYTIPPING

As previously discussed for the purpose of this review fly tipping is defined as “the illegal deposit of any waste onto land i.e. waste dumped or tipped on a site with no licence to accept waste”. Fly tipped waste generally consists of large items of rubbish dumped illegally on land instead of being disposed of properly at a landfill site or tip. The Law it states that “It is also an offence to permit or authorise fly tipping on land where a Waste Management Licence is not held. Where fly tipping involves the use of a vehicle, the driver can be prosecuted, as can the owner of the vehicle. The police have powers to seize vehicles used for fly tipping”. This applies whether it is publicly or privately owned land.

The Authority investigates waste on both registered private land and publicly owned land.

Private land owners have to remove the waste on their land but costs may be retrieved through the courts upon conviction of an individual. However the procedure for dealing with flytipping on unregistered land is currently under review due to the cost implications of the removal of the waste.

Domestic and commercial waste that is placed out for collection on the wrong day, time, week, coloured bag, is also classed as flytipping or littering but dealt with under the Environmental Protection Act 1990 Section 46 and section 47 respectively.

At present there are 3 primary ways in which flytipping is recorded and dealt with across the Authority.

FLARE is the authority’s recording procedure for dealing with complaints and service requests across the former Environmental Health Department.

1. Calls are received and logged onto FLARE via the Customer Call Centre
2. Information is received via email/telephone to Supervisors and/or Enforcement Officers from Councillors/public then added to FLARE
3. Flytipping is removed by operatives during the course of their working day and recorded on paper for administration to update FLARE

Daily Operational Activity

Calls that relate to flytipping are received and logged onto FLARE via the Customer Call Centre are automatically printed out in the enforcement office and allocated to area supervisors on a daily basis.

Supervisors then allocate the work according to the areas that staff are working in on that particular day.

Operatives are deployed from various sites across Swansea at present, these include, Clydach depot, Pipehouse Depot and Home Farm Depot.

Cleansing Operatives deploy to various designated areas across the authority on a daily basis to carry out their statutory duties of street cleansing. Statutory work tends to be Monday – Friday, unless we receive a call for essential work to be undertaken on the weekend. Such working patterns will be considered during the current Parks & Cleansing commissioning review

Calls that are received regarding flytipping via FLARE throughout the working day are given to area supervisors for them to allocate to operatives accordingly.

Where area supervisors are not based at Pipehouse Wharf depot, these calls are placed into area filing drawers, to be collected by supervisors or operatives throughout the day.

There are cleansing operational teams that carry out manual cleansing across 6 designated areas throughout the Authority, this includes the City Centre. There are 6 area supervisors.

There are 3 enforcement officers at present and 1 team leader. Enforcement officers rely on the removal and retrieval of evidence from flytipping, to be collected by the cleansing operatives.

Whilst carrying out their cleansing duties, where operationally possible:-

- operatives examine and remove domestic waste bags that have been incorrectly left out for collection
- Operatives open the bags to see if there is any evidence left in the bag from a householder
- Operatives make a note of the date, time and place of where the waste was found. They also sign the relevant paperwork should a witness statement be required for court proceedings
- If evidence is found this is then brought into the enforcement office, either by the area supervisor or the operative, at the end of the working day.

The enforcement office then write to the householder advising them of the correct day of collection etc. and advise what action may be taken in the future should problems persist. See Appendix 1 (section 46 EPA 1990 letter), Statutory Notice (21 days appeal time), Fixed Penalty Notice (£100 or early repayment £60), court action.

Larger scale flytipping on the highway that has been reported in the area, is also examined for evidence and removed. This evidence is brought into the enforcement office. Enforcement officers then carry out investigations as to

- where the waste has come from
- who removed the waste from the householder
- why it was flytipped.

Enforcement – where evidence is available every effort is made to gather enough evidence to proceed to court, however, in many cases, the waste is removed but no traceable evidence is available and no further action can be taken.

As flytipping is a criminal offence and can result in a criminal conviction officers carry out investigations in accordance to the PACE 2000 regulations. This includes officers obtaining further evidence, gathering witness statements, carrying out recorded interviews under caution (PACE 2000) and compiling prosecution case files.

On completion of the prosecution case file. These files are then forwarded to the Head of Service who in accordance with the Council's Enforcement Concordat approves the case file for legal action.

The files are then forwarded to our legal department for their review and subsequent court summons.

Flytipping offences can be heard at either a Magistrates court or Crown Court. Upon conviction, fines can be unlimited and result in a prison sentence of up to 5 years.

In reality however, fines at either court, usually rely on information from means testing and include legal and court costs.

All cases regarding flytipping are reported to our public relations department.

Use of Cameras

There are restrictions on the use of cameras for surveillance purposes. The Regulations of Investigatory Powers Act (RIPA) requires magistrates court permission, with stringent criteria to be met and reviewed regularly and Closed Circuit Television Surveillance (CCTV).

Where operationally possible, limited use, covert cameras are used for monitoring areas that have been highlighted as flytipping 'hot spots'. Due to the poor quality of evidence retrieved there are no cases pending court action.

Additional operational information

Welsh Government Performance indicators currently state that all reported flytipping is to be removed from relevant land within 5 working days.

Removal of flytipping is not carried out weekdays 'out of hours' or on Saturday or Sunday, unless there is an imminent public safety issue. Specific teams are in on weekend and will be re-directed to any emergency work

Removal of flytipping is carried out as part of cleansing operations daily duties. This may result in flytipping being left down for longer than 5 working days if anything of a larger scale takes longer due to arrangements of all logistics.

Cleansing operatives often have to return to Pipehouse Wharf depot to retrieve additional work, which could be avoided if work could be electronically sent to operatives.

Failure to complete the necessary paperwork at all stages of investigation and removal may result in no further action being taken. Again, electronic means of logging actions on the ground would assist.

At present only some waste is segregated for disposal. Most of the flytipped waste collected goes to landfill at a cost of approximately £100 per tonne.

The service level agreement with Housing will come to an end in August 2016 and waste on housing land will be removed by housing staff only. However, individual flytips could be addressed upon request at a fee, with additional resources.

There could be an income generated if the opportunity to work with public health and housing regarding house clearances under statutory notice were explored. This would prevent waste being flytipped by householder in order to comply with the statutory notice that had been served.

There could also be an opportunity for the Authority to deal with the removal of flytipped waste on private land on a commercial basis if resourced appropriately. This is something which will be raised during the current commissioning review process.

Appendix 1

The Occupier (s)
Address

P Manley

01792 635600

FAW/PM/

2016

Dear Sir / Madam

Re: ENVIRONMENTAL PROTECTION ACT 1990, SECTION 46

You have been sent this letter to inform you of the correct methods of waste disposal. The Council has to advise you that it provides a kerbside collection for your domestic waste and recycling provided you use:

- 3 Black sacks for domestic refuse.
- Green recycling sacks for paper and card.
- A separate green sack should be used for glass and cans.
- **Do not use Green recycling sacks for domestic waste.**
- Food waste should be placed in the green plastic bins.
- Garden waste should be placed in the council issued garden waste sack.
- Pink sacks for plastics.

The Council also provides a chargeable service to collect up to three bulky items provided prior arrangements are made by phoning 635600.

- Black sacks and Pink sacks are collected **fortnightly** on **Wednesday**.
- Green sacks and White garden waste are collected **fortnightly** on the alternate **Wednesday**.
- The green food waste bin is collected every **Wednesday**.

Your next fortnightly collection for green sacks and garden waste is on **2016 and fortnightly thereafter.**

Your next fortnightly collection for pink and black sacks is on **2016 and fortnightly thereafter.**

N.B. Collections for the Bank holiday weeks will run one day behind indicated from the dates above.

You are asked to present your waste for collection:

- On the kerbside at the front of **your** property.
- **No earlier than 7.00pm** the evening before and **no later than 7.00am** on the morning of collection.

I am writing to inform you that in future officers of the authority will be in the area monitoring the situation and serving enforcement notice specifying refuse and recycling collection arrangements. Failure to comply with the requirements of the notice may bring a fine of up to £1,000.

Please help us to keep your local neighbourhood clean.

If you are not sure about what you have to do or need any information and advice or want to discuss this matter further, **please contact me on Tel. No: (01792) 635600.**

Yours faithfully

Agenda Item 5

Operational Policy on the

Management of Trees

Under Parks Service,

Place Department

Waste

1. Introduction

- 1.1 Currently there is no policy in place within the Parks Service of the Regeneration Department for the management of trees for which the service has direct responsibility.
- 1.2 There is no tree policy in the wider authority that deals with the management and preservation of its tree stock
- 1.3 The Tree Services Unit forms part of the Parks Service in-house contractor who are solely responsible for the tree stock within the control of the Regeneration Departments portfolio.
- 1.4 Historically the Service has only had responsibility for the tree stock as indicated above.
- 1.5 The Service also has responsibility now to cover inspection of trees adjacent to the Highway and on Highways land
- 1.6 All other departments within the City & County of Swansea have sole responsibility for the Tree stock on their land.
- 1.7 Housing, Cemeteries and Schools have each financed detailed and ongoing surveys and inspections by the Tree Services Unit on all the trees in their portfolios.

2. Responsibility of Local Authority

- 2.1 If a tree falls or causes injury or damage its owner could be held negligent if they omitted to take sufficient care of the tree. Trees are a potential liability and The City & County of Swansea as a responsible landowner, has a duty of care under HSE regulations to ensure that all of the trees on its land are kept in an acceptable condition and do not put persons and property at unreasonable risk.
- 2.2 The Occupiers Liability Act 1984 requires occupiers of land to have a common duty of care to all visitors. The Act requires the occupiers to take reasonable care to maintain their land in such a condition that it does not harm any person or damage any property.
- 2.3 The Health & Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999 also apply to this situation. Failure to comply with this legislation could lead to the Health and Safety Executive (HSE) taking criminal action against the Council. Section 3 of the Act places a duty on the Council to take reasonable care for the health and safety of third parties. The regulations effectively require the Council to have an adequate tree management system to ensure Health and Safety.
- 2.4 The need for Councils to carry out tree surveys has been recognised for some time. Government guidance in the form of circulars requires Local Authorities to regularly inspect trees adjacent to Highways.

3. Aims and Objectives of tree surveys and inspections

- 3.1 Best practise requires a system of tree management relying on a programme of regular inspection using either a zoning system of assessing priority and potential hazard or a cyclical programme of inspections on a set time period. In the event of tree failure causing injury or damage to life or property, systems such as these are recognised as a reasonable method of proactive management and should provide the basis of a robust defence in the event of litigation.
- 3.2 The main aim of the tree survey is to visually inspect, map and collect data on every tree or woodland within Parks and Highways land. This will enable us to aim our resources at trees that offer the greatest risk to the public and property, build a history or Arboricultural works on trees and tree groups and also provide a reasonable, defensible and proactive tree management system that helps to conserve and enhance the tree population for which we are responsible.
- 3.3 A proactive system will require the Parks Service to develop accurate records of all trees and ensure these records are easily accessible. The Parks Service inspections will be managed by the 'Ezytreev System'.
- 3.4 Ezytreev is a state of the art tree management system, suitable for any person or organisation responsible for the management and maintenance of a large number of trees. It is modular in design, allowing it to be incorporated into a wide range of trees management scenarios.
- 3.5 The Ezytreev Tree Data Management system purchased 4 years ago by the Parks Service allows us to efficiently manage, analyse and manipulate tree data.

4. Inspection Regime

- 4.1 The process of inspection has been agreed on by Mark Russ, Martin Bignell, and Simon John.
- 4.2 Parks. Due to the estimated numbers of parks trees all parks trees are to be inspected every four years on a rolling programme with certain areas 'zoned' to increase inspection rates.
- 4.3 Highways. All highways trees are to be inspected using 'zoning' to determine what level of risk is expected from the trees on a particular road and then subdividing the inspections over four years from very high risk, high risk, moderate risk to low risk.
- 4.4 The criteria for the breakdown of when we inspect/survey each park has been achieved by our shared knowledge of:
 - (i) Numbers of visitors to the park or the surrounding area
 - (ii) Size, age, species and health of the trees
 - (iii) Any special circumstances that bring people into the park
 - (iv) Certain trees that are to be monitored each year

- 4.5 The criteria for the breakdown of when we inspect/survey each highway has been achieved by our shared knowledge of:
- (i) Levels of traffic on a given road
 - (ii) Perceived pedestrian footfall
 - (iii) Class of road
 - (iv) Size, age, species and health of the trees
 - (v) Certain trees that are to be monitored each year
- 4.6 The surveys of both parks and highways will run in parallel. Once all data has been collected and is available for re-inspection then the breakdown for the survey timings should be as follows;
1. Year one. Annual survey.
 - (i) Town centre pedestrian areas and roads.
 - (ii) Arterial roads.
 - (iii) High risk trees (very old, very large) in lower risk areas
 - (iv) High population density parks and park areas.
 - (v) 'A' roads with large trees on them.
 - (vi) Contract 1 parks.
 2. Year two. Biannual survey
 - (i) 'A' roads.
 - (ii) Contract 2 parks.
 - (iii) Large trees on smaller roads.
 2. Year three. Triennial survey
 - (i) 'B' roads.
 - (ii) Contract 3 parks.
 3. Year Four. Quadrennial survey
 - (i) 'C' roads.
 - (ii) Contract 4 parks.
 - (iii) Cycle paths.
 - (iv) Woodlands.

Individual trees or areas that are surveyed through years 2-4 can be moved up or down the inspection levels depending on the findings of the surveyor or new information that comes to light.

5. Criteria For Pruning Trees

- 5.1 Pruning can weaken the structure of trees and should be avoided unless absolutely necessary. The Parks Service may undertake pruning of trees where:
- Tree branches cause an obstruction by growing low over a public highway, public right of way, footpath or access to a property and over gardens or open spaces where the public has access.
 - A tree may be contributing to structural damage to adjacent buildings
 - A tree restricts repairs and maintenance to property or infrastructure
 - Trees are growing close to and likely to obstruct / interfere with street lighting, CCTV and other service equipment, highway and other signage and obstruct sight lines at road junctions and access points.
 - Trees require pruning to shape or train them during their early growing years.
 - Dead or diseased material can be removed in order to either make the tree safe, shape and balance the crown or to remove structural faults identified during inspection

6. Criteria for Right to Light

- 6.1 One of the most common complaints received in respect of trees, situated within the built environment, is that they block light from properties and shade gardens, there is no legal 'right to light'. The tree owner is not required or obliged by law to carry out work to their tree for the benefit of level of light to a third party. This is the position adopted by the Parks Service.
- 6.2 ***The Parks Service will not fell or prune trees under their responsibility for the reason that they are reducing light levels into properties or casting shade over gardens.***

7. Television and Satellite Reception

- 7.1 Interference appears to increase when trees are in leaf and in windy weather. This is especially the case with regards to satellite reception, as it appears more sensitive to interference than television reception.
- 7.2 In the vast majority of cases, interference can be reduced by the relocation of the aerial or by use of 'booster boxes', which often improve the reception significantly and can be encouraged. These options are far cheaper and less destructive than pruning or felling a tree. Such alternative solutions should be encouraged.
- 7.3 There is no legal right to TV reception within common law and tree owners are not obliged or required to fell or prune trees to provide TV reception
- 7.4 ***The Parks Service will not fell or prune trees under their responsibility solely for the reason that they are causing interference with television and satellite reception.***

8. General Nuisances

8.1 There are a variety of other potential nuisances associated with trees caused by natural and/or seasonal demands such as:

- Valuation of property
- Obstructing view
- Leaves falling into gardens, gutters, drains or onto flat roofs
- Obstructing light for 'solar panels'
- Suckers or germinating seedlings in garden
- Reduction or increase of moisture in garden
- Sap, fruit, nuts, bird droppings, insects, honeydew and blossom
- The build up of Algae on fences, paths or other structures.

8.2 ***The Parks Service will not fell or prune trees under their responsibility to alleviate problems caused by natural and/or seasonal phenomena.***



CITY AND COUNTY OF SWANSEA

Dinas A Sir Abertawe

BY EMAIL

Councillor Robert Francis-Davies
Cabinet Member for Enterprise,
Development & Regeneration

Councillor Mark Child
Cabinet Member for Wellbeing & Healthy
City

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Scrutiny

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9th May 2016

Summary: This is a letter from the Tree Preservation Scrutiny Working Group to the Cabinet Member for Enterprise, Development & Regeneration following the meeting of the Working Group on 21 April 2016. It is about the Council's approach to tree preservation and the working group's recommendations.

Dear Councillor Francis-Davies,

**Tree Preservation Scrutiny Working Group
21st April 2016**

We wish to thank you and the officers, Jeff Saywell, Paul Meller, Alan Webster and Martin Bignall, for attending our meeting and engaging in an interesting and productive discussion. This letter reflects on the main areas of our discussion and provides a summary of our views on the matter of tree preservation.

We discussed the importance of the Council's responsibilities for preserving trees and we agree that this is an essential role. We were advised of the Tawe Catchment iTree Eco-survey and the significant benefits it has identified that are brought through the existence of urban trees, including their contribution in terms of carbon capture, rainwater inception and the removal of air pollution. In addition the Green Infrastructure Policy in the draft LDP lists the wide range of benefits of trees including enhancing the landscape and bio-diversity, improving air quality, reducing the impact of noise pollution, reducing flood risk, capturing carbon and goes on to state that trees should wherever possible be protected as part of new development.

As a consequence of this we feel that it more important than ever that the Council ensures that it has an effective tree preservation service, both for trees on private land and on Council owned land. We discussed a range of issues and as a result have identified a number of recommendations that have an impact across the Council, and not just for the Landscaping Team.

Resources

We were pleased to hear that the service has become more pro-active since becoming part of the Landscaping Team in 2011. Work is underway to address the accuracy of records by carrying out a review of existing Tree Preservation Orders. We were informed that there are a range of problems with the Council's historic records, which include a lack of original Tree Preservation Orders in the older files and instances of incomplete paperwork e.g. with missing signatures. We were advised that whilst this is not a problem in the planning arena it causes difficulties if the Council wishes to take up criminal proceedings as part of enforcement, as all relevant paperwork would need to be complete. A review of all documents is underway but limited resources means that progress is slow. We believe that the service should consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale.

Enforcement activity

It is important that the Council is seen to be taking action where householders/developers have ignored Tree Preservation Orders. Our preferred option would be for the Council to select an appropriate case and follow through with a prosecution. We understand that there are difficulties in this, partly due to the fact that it would be a criminal case with a high burden of proof placed on the Council and that the time and resources available for this work are limited. However without taking action the Council is seen as a soft touch on this issue and there is no incentive for people to pay regard to Tree Preservation Orders. We were advised that a more straightforward option is the rigorous pursuit of replacement planting or remedial work at the owner's expense. Both routes should be followed and any successful outcomes publicised and promoted.

Protection of trees on Council land

We learnt that Tree Preservation Orders are not placed on Council owned land as the Council is considered to be a responsible landowner. However we feel that this approach should be reconsidered as the increased sales of Council owned land through the asset disposal programme mean that we are reducing our land holdings in order to raise much needed capital receipts. This means that when land passes out of the Council's ownership the trees are unprotected. Therefore we recommend that Tree Preservation Orders are placed on Council land prior to sale. We appreciate that this may have an impact on the land value however the importance of tree preservation needs to be taken into account.

Provision of information

Overall we feel that more work needs to be done promoting the value and importance of trees both within the Council and with the general public. In particular, key officers within the Council such as planning officers should be fully aware of the importance of trees in order to ensure that appropriate planning conditions are used to protect trees as part of planning approvals. It is also important that clear information is available to the public regarding what can and can't be done to trees that are subject to Tree Preservation Orders.

Identification of protected trees

We raised the issue of ensuring that trees covered by protection order can be identified. We discussed whether it would be possible to tag individual trees so that there is a clear visual marker that a tree is protected. However we were advised that this is not feasible due to the large number of trees and the officer time it would take. In addition, trees would eventually grow around the tags. We accept this advice, however we believe that it is essential that local ward members are provided with details of all Tree Preservation Orders in their wards. We believe that this will assist the service to identify when orders are breached or at risk of being breached by provided additional "eyes and ears" on the ground. We also propose that consideration is given to providing the same information to community councillors.

Tree replanting programme

We learnt during our discussions that the Parks Service is the only section of the Council who carries out a tree replanting programme. We were informed that the service approximately plants 100-150 tree per year, but at the same time has to remove around 400 trees per year. Other departments do not replace trees as a matter of course. We feel that this is an area of concern. In order to maintain the tree population, with its associated benefits, we believe that the Council should ensure that, wherever possible, trees are replaced if they need to be removed.

We discussed the costs associated with this and were advised that the average cost of a 6-8ft tree is £100. We appreciate that the Council has to manage with reduced resources and is facing difficult budget decisions therefore we support the Parks Service idea of developing a Tree Nursery to mitigate the costs of purchasing new trees. We believe that the service should investigate whether this would be a feasible commercial opportunity.

Development of a tree policy

There are a number of issues in relation to tree preservation which we believe should be brought together within an overarching Tree Policy. This should cover all issues relating to trees and not just Tree Preservation Orders, including the relevant issues we have raised in this letter plus the range of issues already

identified by officers in order to ensure a consistent Council wide approach to the retention and provision of tree cover.

Recommendations

As a result of our consideration of the Council's work on tree preservation we wish to make the following recommendations:

1. Consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale
2. Identify a suitable case for prosecution where a Tree Preservation Order has been breached and, if successful, ensure it is widely publicised
3. When Tree Preservation Orders have been breached, if prosecution is not possible, ensure that the service rigorously pursues replacement planting or remedial work at the owner's expense
4. Ensure that Tree Preservation Orders are placed on Council land prior to sale
5. Provide Councillors (including community councillors) with a list of Tree Preservation Orders in their wards
6. Look for ways to promote the value and importance of trees amongst key staff members and the public
7. Direct the Parks Service to develop a proposal to establish a tree/plant nursery to mitigate costs of purchasing new trees and investigate whether this would be a feasible commercial opportunity
8. Ensure that other Council departments replant trees that are removed during the course of their work
9. Develop a tree policy for the whole Council

Your response

In your response we would appreciate your comments on any of the issues raised in this letter. We would be grateful if you could specifically refer to the recommendations outlined. As some of the issues and recommendations come under the portfolio of the Cabinet Member for Wellbeing & Healthy City we have also sent a copy of this letter to him, however it would be preferable to receive a joint response to this letter.

Please could you provide your response by 30th May 2016.

Yours sincerely,

Councillor David Cole
Convener of the Tree Preservation Scrutiny Working Group



CITY AND COUNTY OF SWANSEA
DINAS A SIR ABERTAWE

Councillor David Cole
 Convenor
 Tree Preservation Scrutiny Working Group

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BY EMAIL

Our Ref / Ein Cyf: RFD/SH

Your Ref / Eich

Cyf:

Date / Dyddiad:

27 May 2016

**To receive this information in alternative format, please contact the above.
 I dderbyn yr wybodaeth hon mewn fformat arall, cysylltwch â'r person uchod.**

Dear Councillor Cole

TREE PRESERVATION SCRUTINY WORKING GROUP – 21 APRIL 2016

Thank you for your letter of 9 May 2016 in respect of the above. We agree that trees play a vital part in the landscape and environment of Swansea. We are proud of our woods, parks and urban trees which add to the biodiversity of Swansea and to the Wellbeing of residents. It is important that this is recognised and guidelines and efforts are in place to retain and enhance this. Set out below is my response, jointly made with the Cabinet Member for Wellbeing & Healthy City, to the issues and recommendations raised.

1. Consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale.	Agreed
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**Cabinet Member(s) whose areas of responsibility is affected:
 Cllr Robert Francis-Davies - Enterprise, Development & Regeneration**

Whilst the full review of the tree preservation orders requires specialist technical knowledge, certain aspects of the review can be completed without detailed knowledge.

**COUNCILLOR/Y CYNGHORYDD
 ROBERT FRANCIS-DAVIES
 CABINET MEMBER FOR ENTERPRISE, DEVELOPMENT & REGENERATION /
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These include:

- Completion of scanning the paper files to improve resilience in the event of fire or flood.
- Identification of known inaccuracies of paper work. A check of each TPO document will identify where there are inaccuracies in the numbering system and if there are missing documents.

The Strategic Planning and Natural Environment Manager has identified potential ad-hoc officer time around key stages to help complete the above actions.

2. Identify a suitable case for prosecution where a Tree Preservation Order has been breached and, if successful, ensure it is widely publicised.	Agreed
--	---------------

Cabinet Member(s) whose areas of responsibility is affected:
Cllr Robert Francis-Davies - Enterprise, Development & Regeneration

The Landscape Team will identify a suitable case for prosecution when it occurs. An initial assessment of all breaches will be made to ensure that prospects of a prosecution are possible taking into account the evidence and quality of the supporting documentation. The suitable case must also pass the public interest test. Any successful prosecution will be reported in the Local Press.

3. When Tree Preservation Orders have been breached, if prosecution is not possible, ensure that the service rigorously pursues replacement planting or remedial work at the owner's expense.	Agreed * may require a budget
--	--

Cabinet Member(s) whose areas of responsibility are affected:
Cllr Rob Stewart Cabinet Member (Leader) - Finance and Strategy
Cllr Robert Francis-Davies - Enterprise, Development & Regeneration

COUNCILLOR/Y CYNGHORYDD
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In the event of any removal of a protected tree the owners will in the first instance be instructed to replace the tree. This is a duty as set out in Section 206(1)(b) of the Town and Country Planning Act 1990.

The Council's power to enforce the replacement of trees is discretionary. Clearly the Council must be satisfied that the duty exists, i.e. that the trees were protected by a TPO which was in force at the time they were removed.

In deciding whether to take enforcement action the Council should consider:

- (1) the impact on amenity of the removal of trees, and whether it would be in the interests of amenity (and, in woodlands, in accordance with the practice of good forestry) to require their replacement;
- (2) whether it would be reasonable to serve a tree replacement notice in the circumstances of the case.

If the Council decides not to take formal enforcement action a record should be kept and made available to the public when requested.

If the landowner applies to the Council asking them to dispense with the duty, the Council will give their decision in writing, setting out the reasons.

If the Council believe, in the circumstances, that replacement trees should be planted, the Council will first try to persuade the landowner to comply with the duty voluntarily. The landowner may not fully appreciate that there is a statutory duty to replace the trees in question. The Council will discuss the issue with the landowner, to agree a range of matters such as choice of species, their size and location, the best time to plant and good practice generally. If persuasion, discussion and advice fail, the Council will then consider taking formal enforcement action.

If it appears that a duty to replace trees or woodlands has not been complied with, the Council will within four years from the alleged non-compliance serve on the landowner a tree replacement notice under section 207 of the T&CP Act.

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A tree replacement notice has to be served within four years from the date of the alleged failure to comply with the duty (i.e. four years from the landowner's failure to plant the trees as soon as he or she reasonably could, not four years from the date of the removal of the trees).

Failure to comply with a tree replacement notice is not at present an offence. If a tree is not planted within the period specified in the notice the Council may go on to the land (there is no requirement to give prior notice to the owner or occupier), plant the trees and recover from the landowner any reasonable expenses incurred. Anyone who wilfully obstructs someone from using these powers is guilty of an offence and liable, if convicted in the Magistrates' Court, to a fine of up to £1000.

*To carry out planting ourselves when replanting is not carried out by the tree owner will require a budget. The costs as mentioned above can be recovered or placed as a charge on the land.

4. Ensure that Tree Preservation Orders are placed on Council land prior to sale	Agreed
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Cabinet Member(s) whose areas of responsibility are affected:
Cllr Rob Stewart Cabinet Member (Leader) - Finance and Strategy
Cllr Robert Francis-Davies - Enterprise, Development & Regeneration

This has policy and financial implications.

Once considered for disposal the trees on any site on land owned by the Council will be assessed using Tree Evaluation Method for Preservation Orders. Only trees of suitable quality thus identified may be protected by a tree preservation order. It is important that we treat land being sold by the council the same as any other development site, and consider Tree Preservation Orders where there is a threat to trees that have significant amenity value. Protected trees are not necessarily a constraint to development but are a material consideration in the Planning process where the financial value of a location is balanced with a number of other considerations.

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Strategic Estates and Facilities have been consulted and advise that *“any additional protection to any site will have a detrimental effect on development potential and therefore value. Swansea is not a high value location therefore it could be that such initiatives could render a site undevelopable. Consequently any recommendation to proactively apply TPOs needs to be considered carefully”*.

5. Provide Councillors (including community councillors) with a list of Tree Preservation Orders in their wards	Partially Agreed
--	-------------------------

All CCS Councillors

Each CCS Councillor will be supplied with electronic ‘copies’ of each TPO present in their Ward. Members will be informed of new TPOs (as at present) and any variation or revocation within their wards.

Community councils are consulted on and are provided with copies of schedules and plans of provisional TPO’s and are notified of confirmations, variations and revocations and are consulted on relevant tree works applications.

6. Look for ways to promote the value and importance of trees amongst key staff members and the public	Agreed
---	---------------

Training will be provided to Planning Officers by the Landscape Team relating to trees in the planning context in validating Planning and tree works applications and the emerging LDP Policies.

The Guidance notes “The Protection of Trees on Development Sites” will be updated to ensure the public is provided with current best advice. This may be included as supplementary planning guidance when the new LDP is adopted.

Further information will be provided on the website to increase the information available to the public on matters of relevance to protected trees, trees within Conservation Areas and trees in general e.g. our approach to Ash die back disease.

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The council is working with NRW, the Swansea Environment Centre, Nature conservation and Woodland organisations, and Schools and others to improve appreciation of the wider environment of which trees are crucial. This fits with the Sustainable Swansea goals and the Greener City the council wants to see. This is also one measure the Wellbeing and Future Generations Act will be assessing Swansea on.

<p>7. Direct the Parks Service to develop a proposal to establish a tree/plant nursery to mitigate costs of purchasing new trees and investigate whether this would be a feasible commercial opportunity.</p>	<p>Partially agreed</p>
--	--------------------------------

Cabinet Member(s) whose areas of responsibility is affected:
Cllr. Mark Child - Wellbeing & Healthy City

- i) Parks only has space and resources to carry this out on a small and limited scale for their own use.
- ii) There are a very limited number of species that could be reliably grown from seeds collected locally of varieties that are suitable for planting.
- iii) Buying in smaller trees and growing them to sizes suitable for planting in the public realm (except woodlands) would probably take 8 to 10 years.
- iv) While parks can grow a certain number of trees for their own use with little additional resources, taking this to sell commercially would require a large investment that wouldn't see any returns for approximately 8 to 10 years.
- v) It is an aim to ensure that we obtain trees for planting at the most efficient price, which is a small aspect of the Parks and Cleansing review currently underway. Where commercial opportunities do arise, they will be investigated and undertaken if viable, such as the hanging baskets. Clearly, the cost of trees are very important in enabling replacement planting when others are felled for whatever reason.

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8. Ensure that other Council departments replant trees that are removed during the course of their work	Partially agreed
--	-------------------------

Cabinet Member(s) whose areas of responsibility are affected:

Rob Stewart (Leader) Finance & Strategy

Robert Francis-Davies- Enterprise, Development & Regeneration

Mark Child - Wellbeing & Healthy City

David Hopkins - Environment & Transportation

Jennifer Raynor- Education

Andrea Lewis – Next Generation Service

Jane Harris – Services for Adults and Vulnerable People

Christine Richards (Deputy Leader) - Services for Children and Young People

We thank the Scrutiny committee for providing the information showing that the Council fells approximately 5 times the number of trees that it plants and acknowledge that this presents a serious challenge. If adopted as a Council Policy it will have significant cost implications across all departments. For example, trees are regularly removed as part of road improvement schemes or as part of street maintenance, or within the grounds of education or social services property for various ground improvement reasons or the death of existing trees; It is anticipated that the cost of replacement tree planting by the Parks Tree Services Unit in green spaces is at least £300 per tree and considerably more for street trees - an average of say £2,000.

Whilst we may not be able to do 1 for 1 replanting, we should be looking to reduce the imbalance between felling and planting.

This would be a key element of a Tree Policy, where at the very minimum we should be justifying why we are not replacing trees in certain circumstances.

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9. Develop a tree policy for the whole Council

**Partially
Agreed**

Cabinet Member(s) whose areas of responsibility are affected:

Rob Stewart (Leader) Finance & Strategy

Robert Francis-Davies- Enterprise, Development & Regeneration

Mark Child - Wellbeing & Healthy City

David Hopkins - Environment & Transportation

Jennifer Raynor- Education

Andrea Lewis – Next Generation Service

Jane Harris – Services for Adults and Vulnerable People

Christine Richards (Deputy Leader) - Services for Children and Young People

A whole council Tree Policy would require the cooperation and approval of all the relevant Cabinet Members and affected Council Services for 'adoption' following consideration of financial implications and various methods of delivery including memorial, sponsored trees and compensatory planting in lieu of planting on development sites where no space exists.

In advance of this and to inform such a policy the Landscape Team could produce a policy covering protected trees (to include i - iv below) that would facilitate and make more transparent the decision making process and this could be adopted in part whilst the remaining policies are considered.

Aims:

The main aims of a Council wide policy would be to include broad objectives on canopy retention or expansion, replacement of trees, contribution to wellbeing and green infrastructure initiatives etc.

The following are broad policy and subject headlines to be included in a 'whole tree policy' with the responsible service area identified.

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i. New Tree Preservation Orders – Landscape Team

Robert Francis-Davies- Enterprise, Development & Regeneration

When to make new TPOs

Criteria for making new TPOs

ii. Reviewing Existing Tree Preservation Orders

Robert Francis-Davies- Enterprise, Development & Regeneration

Set Targets – with available resources and timeframes

For transparency clarify the priority of type and chronology of TPOs to review.

iii. Work to Protected Trees

Robert Francis-Davies- Enterprise, Development & Regeneration

Criteria for allowing felling

Criteria for allowing pruning

iv. Enforcement – Landscape Team,

Robert Francis-Davies- Enterprise, Development & Regeneration

Protocol for enforcement

Replacement planting

v. Trees and Development – Landscape Team, Planning Services

Rob Stewart Cabinet Member (Leader) - Finance and Strategy

Robert Francis-Davies- Enterprise, Development & Regeneration

Requirements for planning applications

Development within woodland TPOs

Selling of council land

Adoption of land

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- vi. Management of Council Trees – Tree Services Unit, Schools, Estates
- Mark Child - Wellbeing & Healthy City**
David Hopkins - Environment & Transportation
Jennifer Raynor – Education
- Duty of care
Systems used
Frequency of inspections
Inspectors' minimum qualifications
- vii. Dangerous trees in private ownership – Environmental Health
- Mark Child - Wellbeing & Healthy City**
Reporting requirements
Trees near Highways
Trees endangering neighbours
When to intervene
- viii. Subsidence – Landscape Team (Protected trees – onerous burden of proof), Tree Services Unit (Parks).
- Robert Francis-Davies- Enterprise, Development & Regeneration**
Mark Child - Wellbeing & Healthy City
David Hopkins - Environment & Transportation
Clive Lloyd – Transformation and Performance
- Protocol Required
- ix. Woodland Management – Tree Services Unit (Parks), Nature Conservation
- Mark Child - Wellbeing & Healthy City**
Amenity
Biodiversity
Outdoor space
- x. Tree Planting – Tree Services Unit, Highways, Education, Social Services, Estates, Landscape.

COUNCILLOR/Y CYNGHORYDD
ROBERT FRANCIS-DAVIES
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- 11 -

Mark Child - Wellbeing & Healthy City
David Hopkins - Environment & Transportation
Jennifer Raynor – Education
Andrea Lewis – Next Generation Services
Replacement tree planting – right tree, right place
Highways trees
Size of trees to be planted

- xi. **Tree Diseases** – Landscape Team, Tree Services Unit, Environmental Health,
Highways
Cllr Mark Child - Wellbeing & Healthy City
Cllr Robert Francis-Davies- Enterprise, Development & Regeneration

Reporting procedures
Protocol for widespread damage
Replacement planting
Biosecurity measures – to follow government guidelines
Approach to diseased protected trees

Yours sincerely

COUNCILLOR ROBERT FRANCIS-DAVIES
CABINET MEMBER FOR ENTERPRISE,
DEVELOPMENT & REGENERATION

COUNCILLOR MARK CHILD
CABINET MEMBER FOR
WELLBEING & HEALTHY CITY

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Tree Preservation Scrutiny Working Group (held on 21 April 2016)

	Recommendation	Cabinet Member	Decision	Actions include <i>NB these actions are taken from Cabinet Member response – would need to clarify with officers the exact actions that are taking place</i>	Progress
9	Develop a tree policy for the whole Council	All Cabinet Members		<ul style="list-style-type: none"> • A whole Council Tree Policy requires co-operation and approval of all Cabinet and affected Council Services • Landscape team to produce and interim policy covering protected trees to facilitate and make more transparent the decision making process 	

Agenda Item 6

DEVELOPMENT CAC WORK PROGRAMME 2016-2017

Date	Subject Area	Lead Officers
15 June 2016	Pedestrianisation of Wind Street	Stuart Davies / Mark Thomas
15 June 2016	Fly Tipping Policy	Ian Whettleton / Frances Williams
15 June 2016	Waste Management – Re-Use shop	Keith Coxon
6 July 2016 (Special)	Open Spaces Strategy	Andrew McTaggart Mark Russ Ian Beynon Jackie Rees- Thomas
20 July 2016	Draft Fly Tipping Policy	Ian Whettleton / Frances Williams
20 July 2016	Tree Policy	Martin Bignall
17 August 2016	Provision of a Public Toilet in Swansea Market	Lisa Wells
17 August 2016	Open Spaces Strategy	Andrew McTaggart Mark Russ Ian Beynon Jackie Rees- Thomas
21 September 2016	TBC	
19 October 2016	Waste Management – Re-Use shop (Update)	Keith Coxon
TBC	Pedestrianisation of Wind Street	Stuart Davies / Mark Thomas
TBC	Housing Estates Containing Unadopted (Private) Streets	
TBC	Regional District Shopping Centres (Finalise visits)	
TBC	Recycling - Pink Bag Trial	
TBC	Civic Amenity Sites	