

Review of Outcomes

Investigation of all Reports

1. WISE officers have investigated all reported incidents of fly-tipping and fly-posting reported to BCP Council since September 2021. These reports come to their attention through various channels, including residents reporting an incident of fly-tipping to the Council's Street Services Team, direct from ward Members, or via other Council services.
2. The report is immediately sent to WISE officers who seek to visit as soon as possible to secure evidence. Once their investigation is complete, a request to clear the area is sent to Street Services if the waste is on public land, or to the Council's Environmental Protection Team if the waste is on private land.
3. Table A in Appendix 2 illustrates incidents reported to WISE and what action has been taken. An FPN is only issued where the evidence gathered would be suitable for prosecution through the courts. To secure this evidence, WISE officers have interviewed suspects under caution, obtained statements from witnesses and located vehicle keeper details from the Police. Images from cameras or CCTV has been utilised many times throughout the pilot so far and has helped identify offenders.

Business Duty of Care Inspections

4. In addition to reactive investigations following a report of fly-tipping, inspections of businesses have helped to ensure compliance with their 'Duty of Care' with regards waste management. Under the Environmental Protection Act 1990, all businesses of any kind must contain any waste products safely and dispose of them properly. Types of waste covered include anything produced as rubbish or waste material from a commercial business, including by-products. To evidence that a business has removed their waste appropriately, they require a Duty of Care Waste Transfer Note document.
5. During the business inspections as outlined in Table B of Appendix 2, WISE officers have requested by Notice, evidence of suitable waste arrangements be provided to them for the preceding 12 months within 7 days of the visit. If the evidence is not forthcoming, or is inadequate, an FPN for failure to comply with the Legislation has been served.
6. There have been significant problems with mismanagement of business waste, particularly in Bournemouth Town Centre and surrounding areas. It is clear from the inspections carried out by WISE that many businesses did not have a suitable waste contract in place, meaning business waste was falling outside of the legal waste pathway.
7. During inspections and subsequent engagement, managers and employees of businesses are educated on the importance of managing their waste appropriately and the law is explained fully to those willing to listen.
8. As a result of the inspections carried out by WISE and any subsequent action, more businesses in BCP now have waste contracts ensuring there is a better management of waste across the area. The Council's own Commercial Waste Team has seen an increase in demand since the start of the pilot, although it is important to note that businesses are advised that other companies can provide such a service and the business should request a number of quotes for their needs. There were 50 new customers from October 2019-February 2020 (pre pandemic) and 80 new customers from October 2021-February 2022, including many new bag customers from Bournemouth Central.

9. The absence of detailed geospatial data at the commencement of the trial makes it challenging to draw evidenced conclusions about the efficacy of the pilot after just 6 months of operation. Nevertheless, there has been extremely positive feedback from colleagues in Environment who often spent many hours of their work in certain areas and some photos of alleyways near to Commercial premises in Bournemouth are in Appendix 3 showing the condition before WISE visited and the condition a number of weeks after.
10. In one incident, WISE officers located rats in a commercial kitchen which was immediately reported to the Council's Environmental Health Team. Subsequent enquiries led to a voluntary closure of the food premises, protecting the public from likely harm.

Hard-to-Evidence Casework

11. WISE officers have also used initiative to locate offenders from businesses, with one inspection in Bournemouth leading to a large fly-tipped commercial fridge being located in a rear alley. Investigations after locating the supplier and product number, led officers back to the business that had ordered the item and interviews subsequently led to a confession and an FPN.

Fly-Posting

12. Table C in Appendix 2 illustrates the details and responses to fly-posting by WISE with 7 FPNs served following 10 reports. Until the start of the contract, the Council's Events officers had been attempting to manage reports of fly-posting, some of which were dangerous by their placement at road junctions, although no formal enforcement actions had taken place. The pilot has enabled enforcement action to take place and WISE Officers also remove the offending item once evidence has been secured, further saving Council resource. Offenders are then questioned and fined if appropriate under the Anti-Social Behaviour Act 2003. They are also reminded of the law and the potential dangers and environmental impact during any engagement.

FPN Recovery Rate

13. As of 3 March 2022, 394 FPNs have been served in total and 67.5% have been paid. This has resulted in £45,630 in fines being paid to WISE. BCP Council receive 10% of the recovered fines, which is kept aside for other service-related work, the cost of administering the contract and legal costs for those cases not paid that will proceed to Court. No enforcement investigation has been required by Council officers for these cases, thereby ensuring the pilot is cost-neutral.
14. Those served with a fine are given every opportunity by WISE to pay before referring the matter to the Council's Environmental Protection Team for consideration of prosecution. 101 fines have been paid after the formal 28-day period offenders have to pay, which has saved valuable time in legal discussions and potential action that would have taken place otherwise. WISE make significant effort to engage a party served with an FPN to help avoid a potentially costly Court case for all and help prevent first offenders from receiving a criminal record if found guilty.
15. The Environmental Protection Team are currently considering 2 cases whereby those found guilty of an offence have not paid. This number is likely to increase as the pilot continues and the 10% the Council receives from the fine income will support funding for additional legal support. During consideration of progressing with legal action, the public interest test will be considered as well as specific detail with the case including any past history, the significance of impact on the community and the costs associated with the clearance. Any positive result in

the Courts will be publicised to help reassure the public and make it clear that BCP does not tolerate these offences.

Customer Service and Added Value

16. 3 cases that would have met the threshold for an FPN have not been pursued by WISE due mitigating factors such as health issues, compassionate grounds and language barriers. WISE are committed to engagement with possible offenders and always ensure only those who have understood they have committed an offence are fined and the reputation of the Council is protected as much as possible.
17. A more comprehensive picture is being developed of locality and types of fly-tipping. The map in Appendix 2 highlights the areas where enforcement action has been taken. It illustrates that the demand is most prevalent in Bournemouth Central, East Cliff and Springbourne, Westbourne and West Cliff and Creekmoor Wards.
18. Proactive investigations have taken place during patrols by WISE officers, meaning that some incidents that would not be reported to the Council result in action and clearance, sometimes more quickly than would have been previously. While this adds some pressure to busy teams, it adds value to the residents, businesses and visitors of BCP.

Review of Challenges

Conduct Against Officers

19. As with all enforcement work, there are challenges where those who knowingly or unknowingly have committed an offence under environmental law. Engagement with officers is often aggressive and information can be hard to come by to assist with an investigation and WISE officers have experienced this during the pilot.

A particular engagement in Bournemouth led to the WISE officer calling the Police as he feared for his and other resident's safety when an offender followed him back to his vehicle and made a number of false accusations. Residents in the locality witnessed the incident and some tried to intervene, while also advising they were upset at the ongoing situation with fly-tipping in their road and the officer had to calmly manage this situation prior to the arrival of the Police.

Delays in Response

20. There have been a number of cases where a delay to clearance of waste has resulted from the investigating officer being unable to immediately secure evidence from a fly-tip. While this is limited in number, this remains a concern and will be an ongoing challenge while reports are increasing.

Collation of Evidence

21. Many residents who report incidents do so anonymously, meaning evidence collection is challenging unless incriminating evidence is found within the waste. While WISE officers use experience and initiative to try to identify offenders, this is a challenge that will likely continue.
22. Witnesses of incidents are usually reluctant to agree to attend Court, meaning some cases will have to be dropped without penalty to an offender. WISE officers have offered support and confidence to many witnesses, but many still refuse to commit to providing evidence that would be key to proving a case to the level required and therefore a fine, and/or prosecution, cannot be carried out.

Public Feedback

23. Public concern is an expected and real challenge to this pilot. A number of news stories have appeared since the start of this pilot prompted by someone found guilty of an offence who disagrees and raising the matter as public interest through the media.
24. This is a risk to the reputation of the pilot and the Council and Regulatory Managers have worked hard to minimise the impact of this due to the positive outcomes the pilot has achieved to date and the wider benefits to the Council's area.
25. It is challenging to counter arguments that WISE officers have been too quick to serve an FPN, which is often the headline, due to data protection rules that Council officers are duty bound to comply with. The manager of the Environmental Protection Team investigates all complaints and cases raised to the media and has ensured best practice has been followed, commenting to this effect. However, this has not necessarily been accepted by others and can be difficult to justify without revealing information protected under data-protection rules.
26. Officers expect this challenge to continue, although where a case is beginning to feel contentious by WISE officers, they will seek clarity and instruction from the manager of the pilot. It is also worth noting that commentators to the news stories to date have broadly supported enforcement action against those who mismanage waste and feedback from residents who have made the report is that they are pleased to know that enforcement action is now being taken on fly-tippers.

Legacy Arrangements

27. Difference in Legacy Authority arrangements have led to some decisions being reversed due to lack of understanding and practice formed over a number of years.
28. This has been particularly challenging in Bournemouth Town Centre where some waste from businesses has been collected by a private contractor engaged by the Council many years ago to remove commercial waste left out on streets. Hence the expectation of many businesses in this locality is that they have been complying with their legal duties. While the practice does not absolve a business of their duties, WISE and Council officers agreed that issuing an FPN to certain businesses was inappropriate initially and if businesses subsequently employed a waste contractor to manage their waste lawfully, no further action would be taken.

Complaints

29. The manager of the pilot has experience in dealing with complaints against enforcement officers and this challenge was expected during this pilot.
30. Understandably, where people have committed an offence, either knowingly or otherwise, many are angry and upset that they are being penalised and it was anticipated that this pilot would lead to complaints against the conduct of WISE officers.
31. With a simple representation and complaints procedure, many grievances have been managed quickly and effectively with only 7 escalating to the Council officer managing the pilot. On review of bodycam footage and investigation into the specifics of the case, 1 case was upheld and 1 partially upheld. This is likely however to remain a challenge.

Expectation Management

32. Press enquiries and concerns raised by various stakeholders leads to time lost in other key areas of service provision. Also, considerable resource is taken by the refusal of some offenders to acknowledge they have been found to have committed an offence and thereby continuing with a complaint, despite subsequent findings through an investigation proving process and practice to be sound.
33. As the pilot has progressed, suggestions have been made that WISE focuses on education and tackling the reasons behind fly-tipping. This is outside of the scope of the current pilot and such expectations can be difficult and time-consuming to manage.

CCTV

34. As well as the expectation management difficulties mentioned above, CCTV is viewed as one of the main preventions and solutions to reducing fly-tipping. While this may act as a deterrent and forms part of the solution, it is not a cost-effective or simple solution to help support this pilot or any future fly-tipping response work.
35. Officers have witnessed a number of individuals recorded dumping waste at various points across BCP Council and unfortunately cannot identify individuals by just their face or other characteristics. Where a vehicle is involved, we have seen significant success with identifying a registered keeper and commencing enquiries from there, but in some areas, it has neither prevented the incident or provided sufficient evidence to identify the offender. However, expectations are that CCTV will reduce fly-tipping incidents and result in a penalty for those responsible.
36. Options to increase the CCTV resource within the Council to support this work are considered in the Options Appraisal below.

Waste Strategy Review

37. Many of the operational challenges outlined above are likely to continue, and in any case would be present with any enforcement solution to fly-tipping and fly-posting. The successes and outcomes to date are keenly felt by operational officers of the Council and the increased confidence with which residents feel that action will be taken if they report offences.
38. It is clear, however, there is scope to address the wider reasons behind fly-tipping. This is not a simple issue and National seminars, and conferences regularly take place to seek learning and best practice from colleagues across the country. Despite limited successes, incidents continue to rise across the Country.
39. A review of future options for an outsourced contract due to end in March 2023, which includes bulky waste collection services, is due to commence shortly. The wider review of the Council's Waste Strategy is also anticipated to commence during 2022/23. This is, however, dependent on the Government's national waste strategy and associated legislation, which has been delayed. We are now waiting for a third consultation on the final proposals, which is anticipated in Spring 2022.