

REPORT OF DIRECTOR OF ENVIRONMENT

**ENVIRONMENTAL AND PUBLIC PROTECTION SCRUTINY
COMMITTEE**

DATE 22ND FEBRUARY 2019

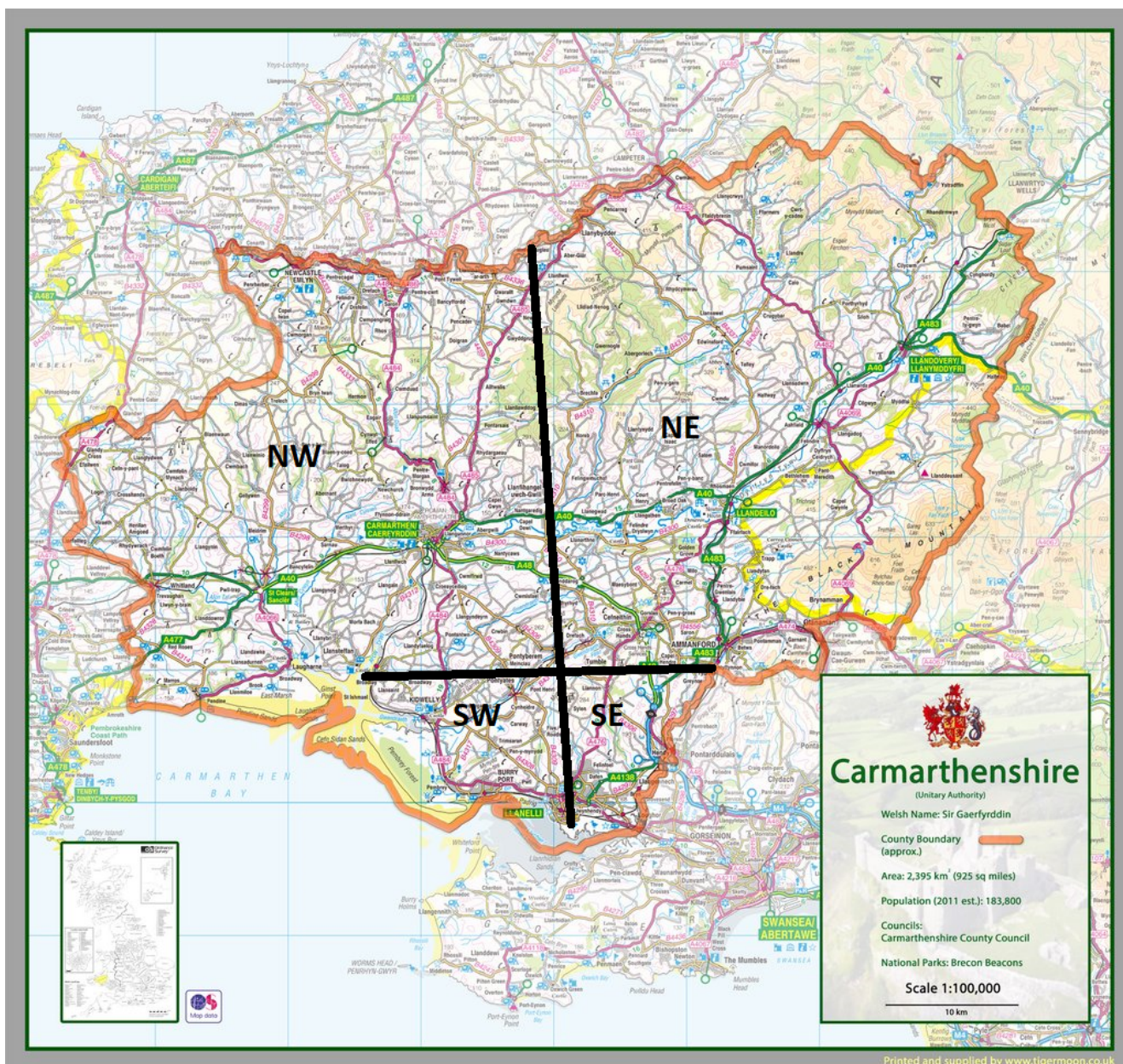
Environmental Enforcement Activity Update

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1. Introduction

- 1.1. The Environmental Enforcement Unit consists of 4 teams that cover Carmarthenshire and are split into 4 geographical areas or beats.

These beats are: the North West covering Carmarthen/Whitland/Newcastle Emlyn, the North East covering Llandeilo/Ammanford/Crosshands, the South West covering Llanelli West/Burry Port/Kidwelly and the South East covering Llanelli East/Llywnhendy/Bynea.



- 1.2 The unit is primarily focused on dealing with litter, dog fouling and fly tipping however they are responsible for dealing with environmental crime that has an adverse impact on local environmental quality namely graffiti, fly posting, abandoned and nuisance vehicles, highways offences and waste offences. Preventing offences is equally important and officers conduct talks in schools highlighting the issues surrounding litter and dog fouling.
- 1.3 The Officers are responsible for reactive and pro-active enforcement by responding to complaints and also providing a patrolling element detecting offenders who commit offences within the officer's authorised powers.
- 1.4 The officers respond to around 300 to 350 incidents per month dealing with the spectrum of environmental crime utilising the Flare operational system. The staff in the contact centre directly input into the Flare system that generates an incident into the officer's inbox.

2. Background

2.1 The unit was originally created in response to requests from members and our communities for action to be taken in relation to dog fouling, litter and fly tipping. Once established the unit began to issue fixed penalty fines, interview suspects under the Police and Criminal Evidence Act which led to prosecutions in both the Magistrates/Crown Court and issued notices in compliance of our waste policies.

2.2 To ensure the section was adhering to good enforcement principles the enforcement concordat was adopted, this promoted best practice values that have recently been implemented into the current Corporate Enforcement Policy (Appendix a):

- **Standards**
- **Openness**
- **Helpfulness**
- **Complaints about service**
- **Proportionality**
- **Consistency**
- **Principles of Good Enforcement: Procedures**

2.3 Once created the unit was co-opted into the Corporate Enforcement Group which was integral in following the concordat for all enforcement bodies within the council and still continues today under the chair of the current Executive Board Member Cllr. Philip Hughes.

2.4 Legislation has dictated how the unit can function and over the years the law has evolved to reflect current society. The section has been at the forefront of interpretation and implementation of these laws an example being the current Public Space Protection Orders.

2.5 There has been much research undertaken that without effective and efficient enforcement areas would become degraded, anti-social behaviour increases which links in with an increase in crime. The unit aspires to undertake all enforcement activities across the spectrum of environmental crime to restrict and reduce incidents of anti-social behaviour.

3 Offences dealt with

3.1 Dog fouling

Dog fouling is now undertaken utilising Public Space Protections orders under the Anti-Social Crime and Policing Act 2014. In 2016 following a comprehensive public consultation it was approved to enforce on the following conditions:-

- A county wide order requiring people to clean up after their dogs on all public land within the County.
- A county wide order requiring people to place their dog on a lead of no more than 2m in length when directed to do so by authorised officer.
- An order excluding dogs from children's play areas.

Penalties for offenders is set in the legislation at £100 for a fixed penalty and £50 if paid within 10 days of the offence. Offenders can be taken to the Magistrates Court where they can receive higher penalties of up to £1000.

Since the introduction of the Public Space Protection Order on the 1st of July 2016 there have been 396 complaints received in relation to dog fouling; 73 fixed penalty tickets have been issued and 7 prosecutions have been undertaken for offenders who failed to pay the fixed penalty notice.

Prior to 2018 there have been 530 fixed penalty tickets issued for dog fouling.

3.2 Litter

The Environmental Protection Act 1990 gives the section the authority to undertake enforcement which includes cigarette butts and chewing gum. Fixed penalty tickets are given in the first instance which are currently set at £75 with an early repayment of £50 if paid within 10 days. If taken to the Magistrates Court they can increase the fine up to £2500. Since the unit has undertaken enforcement 2323 fixed penalty tickets have been issued with an income to the authority of £100,510.

3.3 Fly tipping

The main legislation in dealing with fly tipping comes under the Environmental Protection Act 1990 however there have been a number of amendments over the years and other pieces of legislation that allow us to tackle the waste carriers, these are the white van men and tipper lorry drivers who contribute to the offences of fly tipping.

Fly tipping is a problem across Wales and we are no exception receiving around 1500 incidents a year however this year there has been an increase to 2900 due to a change in recording techniques utilising a fly mapper app that accurately plots the tipping.

To scope the problem we are required to report to the government our complaints and investigations which is then broken down into the type of waste and quantity. Household waste tops the table by a long way followed by construction waste and white goods. Full analysis can be seen on the government webpage.

To tackle this problem the unit engages with external partners namely the Police and National Resource Wales. We conduct joint operations in stopping waste carriers at source to check they have the necessary waste documentation. Since undertaking this role we have issued 78 fixed penalties for not having a waste carrier's licence or not having any waste transfer notes.

The unit has undertaken 162 prosecutions for fly tipping also a successful prosecution for fraud whereby an individual used the Household Waste Recycling Centres (HWRCs) to dispose of his business waste using the domestic facility. The offender was fined £12000. The unit has successfully applied for 2 court warrants for the seizure of vehicles involved in fly tipping.

The unit is competent in utilising covert camera techniques and has deployed equipment on a number of occasions which has led to the successful prosecution of a number of offenders. However, it should be noted that there are strict controls on surveillance operations, ultimately controlled by the The Investigatory Powers Commissioner.

Since 2018 legislation has allowed the section to issue fixed penalties for fly tipping that has a penalty of £350. 11 fixed penalties have been handed out since the implementation.

3.4 Duty of Care

The law requires anyone dealing with waste to keep it safe, make sure it's dealt with responsibly and only given to businesses authorised to take it. The Code of Practice applies to if you produce, carry, keep, dispose of, treat, import or have control of the waste.

The section has undertaken 123 prosecutions for breaches of duty of care. It is an important area to Police as an example of a breach of duty of care could be waste escaping from the back of lorries that can have an impact on the cleansing service and in some instances cause traffic accidents. The officers have issued 248 notices requiring waste carriers to present their waste transfer notes.

Under the Environmental Protection Act 1990 the section has the powers to deal with residents and business who fail to comply with our waste policies. Examples are early presentation of waste, contaminated items in recyclable blue bags and excess waste being presented. Notices can be issued to the resident and business to which they would have a right to appeal in the Magistrates court and after that period has expired then fixed penalties can be issued of £100 for breaches of the notice. The unit has issued 114 fixed penalty notices and undertaken 12 prosecutions for this offence and issued 2007 notices to residents and 524 notices to businesses.

3.5 Graffiti and Fly posting.

Graffiti is wording or imagery that is written, painted, sprayed or scratched onto the surface of any property.

Fly-posters usually advertise or promote events and are placed without permission of the owner of the property and can take the form of stickers, signs or posters.

Both are deemed to be criminal offences and the severity can depend on the type of graffiti displayed i.e. racially motivated, xenophobic, sexual, and other forms that amount to hate crime.

Some individuals like to be recognised for their work and normally leave “tags” which can identify the individual. These “tags” can be collated as an evidence exercise and used against the individual when apprehended.

The section has issued 99 fixed penalty tickets for graffiti and fly posting and undertaken 11 prosecutions for flyposting with one case being challenged in the Crown Court that was upheld ending in a successful prosecution.

3.6 Abandoned Vehicles

Vehicles left abandoned can have a negative effect on the quality of the local environment, and fixed penalties can be issued if it is proven that the offender abandoned it. The section has issued 24 fixed penalties for this offence.

Also included in this section is nuisance vehicles, vehicles for sale and vehicles repaired on a road. The legislation is catered for under the Clean Neighbourhood Act 2005.

3.7 Highway Offences

Highways law is a wide scoping area and can include the following

- Mud on the road
- Obstructions to the Highway
- Unauthorised skips on the Highway
- Unauthorised scaffolding on the Highway.
- Depositing material on the Highway

The section works closely with colleagues in Highways to ensure the legislation is adhered to

4 Current situation

4.1 The section utilises the Flare operational system to manage complaints from a variety of sources and operates the system for file preparation and letter generation. The system is shared between Environmental Health and Trading Standards that allows for data sharing as there is cross departmental working between the sections.

4.2 Officers provide input into the Local Environmental Quality forum whereby agenda items are provided via Grounds, Cleansing, Refuse, Policy and Enforcement. As a result of the meetings actions are created in order to provide a holistic approach in dealing with Waste and Environmental issues.

4.3 Officers attend the National Enforcement Forum in order to obtain the latest updates in Enforcement and share best practice.

4.4 Officers work closely with the Communications Unit in highlighting fines and prosecutions for maximum effect in deterring individuals to commit crime.

4.5 Officers attend local groups like the needle exchange programme and CCTV operational meetings to provide expertise and direction.

4.6 Officers follow a work programme that encapsulates current trends and focus on the issues at hand. (Appendix b)

5 Successes

5.1 The unit's success has been recognised outside the Authority which has resulted in Panorama producing a programme following the officers when out on patrol. BBC1 Street Patrol, ITV Week in Week out and a number of radio interviews. Presentations to other authorities highlighting our techniques including locations such as London, Birmingham and Northern Ireland.

5.2 The unit has access to a variety of surveillance equipment and following the Regulatory Investigatory Powers Act of 2000 ensures that any evidence gathering activity complies with the regulations. The section has deployed surveillance equipment on a number of occasions that has been successful in catching offenders who commit fly tipping.

5.3 Working with local fast food outlets the section is able to detect offenders who throw fast food packaging into the road.

5.4 The unit has consistently appeared in the top quartile as reported by the Welsh Government for its performance in enforcement.

6 Future

6.1 The Public Space Protection Orders that were implemented in 2016 are due for renewal in 2019 and will require renewal every 3 years due to the current statutory requirements.

6.2 The Welsh Government are in the process of legislating against householders with regard to their duty of care. At present the only opportunity to deal with this offence is to take the matter before the Magistrates however the new legislation will allow the section to issue fixed penalty notices of £300 with an early payment of £150 within 10 days.

6.3 To review the potential of adopting the devolved DVLA powers in dealing with untaxed vehicles.

6.4 The use of social media has been successful in the identification of fly tipping at bring sites and individuals who allow their dogs to foul without picking up. The Enforcement Unit together with the Communications Unit are exploring more ways in utilising this modern technology.

6.5 To review legislation that allows the council to seize vehicles involved in fly tipping whereby previously application for warrants were required to seize and certain criteria had to be applied.

6.6 To continue to work closely with other departments in the council and outside agencies like the Police, Fire Service and National Resource Wales in order to provide an effective and efficient enforcement deterrent that educates the residents to comply with the legislation and our waste policies.

6.7 To continue to play an integral role in addressing local environmental quality matters across the wide spectrum of environmental crime.