
Meeting: Sustainable Communities Overview & Scrutiny Committee

Date: 4th January 2010

Subject: Policy approach to enforcement of the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005 and associated legislation

Report of: Cllr McVicar, Portfolio Holder for Safer & Stronger Communities

Summary: The report proposes to consider how the Council, through its Sustainable Communities Directorate implements the range of environmental duties (including environmental crime) for which it is responsible, under the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005 and associated legislation. It is due to be considered by the Executive at it's meeting on 12th January 2010, comments from this Overview and Scrutiny Committee will be included in that report.

Contact Officer: Gary Alderson, Director of Sustainable Communities

Public/Exempt: Jane Moakes, Assistant Director Community Safety and Public Protection

Wards Affected: All

Function of: Executive

RECOMMENDATION:

- 1. That the Overview & Scrutiny Committee consider the contents of this report and any comments be forwarded for inclusion in the report to Executive for consideration at it's meeting on 12th January 2009.**

Reason for Recommendation: That the views of the Sustainable Communities Overview and Scrutiny Committee are taken into consideration as the Executive considers the proposed policy approach to the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005 and associated legislation; with consistent and proportionate action taken to deal with the range of environmental crime, antisocial behaviour, nuisance etc in Central Bedfordshire.

CORPORATE IMPLICATIONS

Council Priorities:

The implementation of environmental legislation through prevention, education, intervention and enforcement activities can make a significant contribution to the physical environment and quality of life experienced by local residents and communities. It also contributes to the delivery of the Councils community safety priority of 'Creating Safer Communities' to reduce crime, fear of crime, anti social behaviour and increase public confidence.

Financial:

In implementing the agreed policy approach officers will have regard to the Councils financial position and make best use of existing resources to provide a more effective, efficient and harmonised service, that provides value for money. Income generated from fixed penalty notices will be ring fenced to the service and used to invest in service delivery (e.g. publicity and information)

Legal:

The duties and responsibilities the Council has under this legislation are clearly laid out. Guidance from government departments and the 'Working Better Together' agreement between the Local Government Association and Environment Agency, support and provide more detail on the application and enforcement of these duties to address issues locally. These will be used as a framework for working procedures.

In taking a new approach as proposed, there is a potential for more offences to be identified, fixed penalty notices served and further legal action (including prosecutions) taken. This may have an impact on resources within the legal service.

Risk Management:

There is reputational risk should the Council not agree a new approach for the whole area, as potentially different action for similar environmental crimes and offences in the north and south of Central Bedfordshire could be taken.

There are potential environmental and financial implications if enforcement action is not undertaken as part of the overall approach as the Council would continue to bear the costs for removal and disposal of fly tips , fly posters and litter.

There are also potential risks and challenges to working in partnership with the Police, Environment Agency and others, due to their expectations, should the Council not agree a policy approach in respect of its duties and responsibilities.

Staffing (including Trades Unions):

Implementation of a new approach will have an impact on current ways of working. Staff involved in this work are in teams within the Sustainable Communities Directorate (Community Safety, Public Protection and Waste); staff in Private Sector Housing (Adult Social Care and Housing) also undertake an element of the activity. All staff concerned will be consulted on the proposed way forward and any organisational changes required as a result, in line with HR guidance and support. In the main this will form part of the organisational review within Sustainable Communities. Private sector housing colleagues and the trade unions will also be consulted.

Equalities/Human Rights:

Enforcement of environmental legislation can have a positive impact for vulnerable equality groups who are often disproportionately affected, especially in areas of deprivation which are often hot spots. Therefore an equalities impact assessment of the policy will be undertaken to highlight underlying patterns and trends for different sections of the community and identify whether further action is required to improve outcomes for our communities and in particular vulnerable equality groups.

Community Development/Safety:

The detrimental impact that illegal waste disposal, fly tipping and other environmental crime, litter, fly posting and anti social behaviour of this nature continue to be raised by local residents through surveys and other mechanisms. In agreeing a new approach to address these matters more effectively should help improve the quality of life for our communities, and help reduce crime, fear of crime and anti social behaviour.

The recently completed strategic assessment for the Community Safety Partnership recently completed for Community Safety shows no priority concerns around environmental issues although these are clearly linked to locality issues around anti-social behaviour. The issues outlined in the report clearly highlight areas for consideration in the next strategic assessment process.

Sustainability:

Enforcement of environmental legislation can make a significant contribution to effective waste management, quality of the physical environment, tackle those responsible for environmental crime and anti social behaviour and prevent further offences.

Introduction

1. The report including detailed appendices attached, sets out the legislative background and rationale for the powers and duties to more effectively tackle poor environmental quality, environmental crime and anti social behaviour, within the Environmental Protection Act (EPA), Clean Neighbourhoods and Environment Act (CNEA) and associated legislation.

2. The report proposes a new policy approach of prevention, intervention, enforcement, applied under the 'fair regulation' principles of proportionality, consistency, transparency and appropriate targeting in the context of local circumstance. It also recommends that new local agreement with the Environment Agency is entered into to support this.
3. In considering the approach and report details attached, the Committee should note that organisational arrangements and operational practice will need to be reviewed and reconfigured and that this will form part of the organisational review within the Sustainable Communities Directorate.
4. The Committee is also asked to note that it is not the intention at this stage , or in the report to the Executive to consider the detail of the organisational arrangements that will be responsible for the enforcement of the legislation, neither is it to consider the development of a uniformed or visible presence; this report is currently planned as a separate report to be considered by the this Committee and the Executive in March 2010.

Conclusion

6. It is important that Central Bedfordshire has an agreed policy that sets out how it will implement and enforce the provisions of the EPA, CNEA and associated legislation and that this policy is relevant to local circumstance and responsive to the needs of the area.
7. It is also important that the new approach is communicated to local residents, the wider public and businesses in the area, so they can support the Council and we can work together in keeping the area clean, protect the environment and support good practice in respect of waste handling, anti social behaviour and lower level environmental crime; all of which have an impact on the local environment.
8. It is also important that the Council operates in a fair, proportionate, transparent and consistent manner in undertaking enforcement and that there is common understanding on this. Also, that in introducing the new approach, it is underpinned and supported by proactive communication with appropriate publicity and information, this will involve colleagues within Sustainable Communities and Communications.

Appendices:

Appendix 1 – Draft report for Executive meeting 12.1.10

- Appendix A - Summary of comments from Sustainable Communities Overview & Scrutiny (to follow)
- Appendix B - Environmental Protection Act 1990 – additional items that came into force Oct 2005
- Appendix C - A summary of the main provisions of the EPA and national picture
- Appendix D - Protocol on fly tipping and illegal waste activities
- Appendix E - Main provisions of CNEA
- Appendix F - Current Position and Services involved
- Appendix G - Outline of Proposed Policy on Enforcement of the EPA, CNEA & Associated Legislation