

The following examples illustrate the sharing of responsibility between local authorities and Environment Agency for tackling a variety of examples of incidents of fly-tipping and illegal dumping of waste. Scope for flexibility in local agreements is also indicated. The Agency and LAs will seek to recover any costs associated with enforcement activities from the polluter, occupier of land or other person or organisation that is deemed responsible for meeting such costs. A definition of “organised crime” is presented at the end of this Appendix to assist in interpreting the responses indicated.

	<b>Example incident</b>	<b>Local authority</b>	<b>Environment Agency</b>	<b>Any flexibility in “local agreement”</b>
<b>1</b>	A bin bag or several bin bags of household or commercial waste on the street, in a public place in on public land	<ul style="list-style-type: none"> <li>Investigates and where there is evidence take enforcement action: fixed penalty fine (unless repeat offence, when prosecution may be usual)</li> <li>Removes and includes in summary data monthly return on <i>Flycapture</i><sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>If reported to Agency – pass information to LA</li> </ul>	N/A
<b>2</b>	A pile of waste or several piles of waste about the size of a large car boot (up to 0.5 cubic metres) on the street, in a public place or on public land	<ul style="list-style-type: none"> <li>Investigates and where there is evidence may serve fixed penalty fine or prosecute depending upon local circumstances/policies</li> <li>Removes</li> <li>Includes in summary data monthly return on <i>Flycapture</i></li> </ul>	<ul style="list-style-type: none"> <li>If reported to Agency – pass information to LA</li> </ul>	N/A
<b>3</b>	A pile or several piles of waste from a van or up to 7.5 tonne tipper truck (between 0.5 cubic metres and 10 cubic metres) dumped on the street, in a public place or on public land	<ul style="list-style-type: none"> <li>Investigates and, where there is evidence, prosecutes</li> <li>Where frequently repeated offence or “organised” crime suspected advise Agency and agree action locally</li> <li>Removes</li> <li>Includes in summary data monthly return on <i>Flycapture</i> (unless Agency “takes the lead”)</li> </ul>	<ul style="list-style-type: none"> <li>If reported to Agency – pass information to LA</li> <li>Where agreed locally, the Agency may investigate and prosecute where frequent offences occurring</li> <li>Include incident on Agency database if Agency take the lead in investigation and prosecution</li> </ul>	<ul style="list-style-type: none"> <li>Which party will investigate the incident and prosecute until April 2005.</li> <li>Arrangements for keeping each party advised of developments</li> </ul>
<b>By April 2005 it is anticipated that LAs will have built sufficient capacity to address these without Agency support.</b>				

<sup>1</sup> The Environment Agency is also required to enter summary data on incidents that it’s staff respond to into the *Flycapture* database. Since this will be done electronically from the Agency’s existing incidents database it is not referred to specifically in this Annex.

	<b>Example incident</b>	<b>Local authority</b>	<b>Environment Agency</b>	<b>Any flexibility in “local agreement”</b>
4	A pile of waste from a single large tipper truck (approximately 20m <sup>3</sup> / 18tonnes size) dumped on the street, in a public place or on public land	<ul style="list-style-type: none"> <li>• Investigates and, where there is evidence, prosecutes</li> <li>• Advises Agency of incident and shares details</li> <li>• Where agreed locally, frequently repeated offences or where “organised” crime suspected pass to Agency for investigation</li> <li>• LA removes</li> <li>• Includes in summary data monthly return on <i>Flycapture</i>(unless Agency “takes the lead”)</li> </ul>	<ul style="list-style-type: none"> <li>• If reported to Agency – pass information to LA</li> <li>• Where agreed locally, investigate and prosecute only when frequently repeated offence or “organised” crime suspected</li> <li>• Include incident on Agency database if Agency take the lead in investigation and prosecution</li> </ul>	<ul style="list-style-type: none"> <li>• Which party investigates the incident frequent offences or suspected “organised” crime</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>
5	A pile of waste from several large tipper trucks (i.e. each more than 20m <sup>3</sup> size – approx. 18tonnes) dumped on the street, in a public place or on public land	<ul style="list-style-type: none"> <li>• If LA “find” fly-tip – may carry out initial investigation and enforcement (may pass to Agency)</li> <li>• Where frequently repeated offence or “organised” crime suspected pass to Agency for investigation</li> <li>• LA removes</li> <li>• LA includes in summary data monthly return on <i>Flycapture</i> for removal and where enforcement action taken by LA details entered by LA</li> </ul>	<ul style="list-style-type: none"> <li>• If Agency “find” fly-tip –will usually carry out investigation and take enforcement action except where LA wishes to take on this work (in which case, EA will endeavour to respond to LA requests for support)</li> <li>• Include incident on Agency database if Agency take the lead in investigation and prosecution</li> </ul>	<ul style="list-style-type: none"> <li>• Which party investigates the incident especially in relation to frequent offences or where “organised” crime suspected and in what (local) circumstances</li> <li>• Scope for Agency provide support to LAs carrying out investigation and taking enforcement action</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>

	Example incident	Local authority	Environment Agency	Any flexibility in “local agreement”
6	Fly-tipped waste in relation to a river or water courses or inter-tidal foreshore	<ul style="list-style-type: none"> <li>• Where the waste presents only a local amenity impact , LA may ensure that the waste is removed (either by polluter, owner/occupier or by LA), investigate and take enforcement action</li> <li>• Where the waste presents an actual or imminent significant flood-risk in relation to Ordinary Watercourse, LA will ensure that the waste is removed (either by polluter, owner/occupier or by LA), investigate and take appropriate enforcement action</li> <li>• Where the waste presents an actual or imminent significant flood risk in relation to a Main River – LA pass to Agency</li> <li>• Where the waste presents an actual or imminent threat of water pollution other than in a Controlled Water (e.g. a pond that doesn't discharge to a watercourse) – LA will ensure that the waste is removed (either by polluter, owner/occupier or by LA), investigate and take appropriate enforcement action</li> <li>• Where the waste presents an actual or imminent threat of water pollution in a Controlled Water – LA pass to Agency</li> <li>• Where frequently repeated offence or “organised” crime suspected, pass to Agency for investigation</li> <li>• LA includes in summary data monthly return on <i>Flycapture</i> for removal and where enforcement action taken by LA details entered by LA</li> </ul>	<ul style="list-style-type: none"> <li>• Where the waste presents an actual or immediate threat of significant flooding in relation to a Main River or Critical Ordinary Watercourse the Agency will ensure the waste is removed (either by polluter, owner/occupier or by Agency) and may investigate and take appropriate enforcement action</li> <li>• Where the waste presents an actual or imminent threat of water pollution in relation to Controlled Waters the Agency will ensure the waste is removed (either by polluter, owner/occupier or by Agency) and may investigate and take appropriate enforcement action</li> <li>• Waste dumped in waters that are <b>NOT</b> the responsibility of the Agency – pass to LA or Internal Drainage Board</li> <li>• Investigate and take appropriate enforcement action if LA advises frequently repeated offences or “organised” crime suspected</li> <li>• Include incident on Agency database if Agency take the lead in investigation and prosecution</li> </ul>	<ul style="list-style-type: none"> <li>• Local agreement may identify watercourses at risk and illustrate action to be taken by each party</li> <li>• Local agreement may cover arrangements for removal of waste from watercourses including utilisation of Agency resources and expertise</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>

	Example incident	Local authority	Environment Agency	Any flexibility in “local agreement”
7	Animal carcass in water course	<ul style="list-style-type: none"> <li>• Where the carcass(es) presents only a local amenity impact , LA may ensure removal (either by polluter, owner/occupier or by LA), investigate and take enforcement action (LA Trading Standards are enforcing authorities for the Animal By-Products Regulations)</li> <li>• Where the carcass(es) presents an actual or imminent significant flood-risk in Ordinary Watercourse, LA ensure removal (either by polluter, owner/occupier or by LA), investigate and take appropriate enforcement action</li> <li>• Where the carcass(es) presents an actual or imminent significant flood risk in a Main River – LA pass to Agency</li> <li>• Where the carcass(es) presents an actual or imminent threat of water pollution other than in a Controlled Water (e.g. a pond that doesn't discharge to a watercourse) – LA ensure that the removal (either by polluter, owner/occupier or by LA), investigate and take appropriate enforcement action</li> <li>• Where the carcass(es) presents an actual or imminent threat of water pollution in a Controlled Water – LA pass to Agency</li> <li>• Where frequently repeated offence or “organised” crime suspected, pass to Agency for investigation</li> <li>• LA includes in summary data monthly return on <i>Flycapture</i> for removal and where enforcement action taken by LA details entered by LA</li> </ul>	<ul style="list-style-type: none"> <li>• Where the carcass(es) presents an actual or immediate significant threat of flooding in relation to a Main River or Critical Ordinary Watercourse the Agency will ensure removal (either by polluter, owner/occupier or by Agency) and may investigate and take appropriate enforcement action</li> <li>• Where the carcass(es) present an actual or imminent threat of water pollution in Controlled Waters the Agency will ensure removal (either by polluter, owner/occupier or by Agency) and may investigate and take appropriate enforcement action</li> <li>• Investigate and take appropriate enforcement action if LA advises frequently repeated offences or “organised” crime suspected</li> <li>• Include incident on Agency database if Agency take the lead in investigation and prosecution</li> </ul>	<ul style="list-style-type: none"> <li>• Local agreement will identify watercourses at risk and illustrate action to be taken by each party</li> <li>• There may be local agreement re contract for removal</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>

	Example incident	Local authority	Environment Agency	Any flexibility in “local agreement”
8	Drums/containers of potentially hazardous waste abandoned in a public place e.g. lay-by	If reported to LA - assess and: <ul style="list-style-type: none"> <li>• If less than (75 litres [16.5 gallons]) arrange safe disposal and take appropriate enforcement action</li> <li>• If more than (75 litres [16.5 gallons]) – pass information to Agency for investigation and enforcement action and agree arrangements for removal</li> <li>• Inform Agency of action taken</li> <li>• Include in summary data in monthly return on <i>Flycapture</i> where LA deals with incident</li> </ul>	If reported to Agency - assess and: <ul style="list-style-type: none"> <li>• If less than (75 litres [16.5 gallons]) pass to LA for investigation, to arrange safe disposal and to take appropriate enforcement action</li> <li>• If more than (75 litres [16.5 gallons]) –Agency will investigate and take appropriate enforcement action – agree removal arrangements with LA</li> </ul> <p>Where actual or imminent threat to human health or environment and there is no adequate response from other responsible body - investigate, arrange removal and take appropriate enforcement action</p> <ul style="list-style-type: none"> <li>• Inform LA of action taken</li> <li>• Include incident on Agency database where Agency takes the lead in investigation and prosecution</li> </ul>	<ul style="list-style-type: none"> <li>• Arrangements for keeping each party advised of developments</li> <li>• Detailed local arrangements for investigation, enforcement and removal</li> <li>• There may be local agreement re contract for removal</li> </ul>
9	Illegal waste landfill, transfer station or waste treatment site	<ul style="list-style-type: none"> <li>• If reported to LA – pass information to Agency and inform planning department/ authority</li> <li>• Agree best approach to enforcement with all parties</li> <li>• LA includes in summary data monthly return on <i>Flycapture</i> for removal and enforcement action where incident passed back to LA</li> </ul>	<ul style="list-style-type: none"> <li>• When reported to Agency - carry out appropriate investigation</li> <li>• Inform LA</li> <li>• Agree best approach to enforcement with LA including planning authority</li> <li>• Include incident on Agency database if Agency take the lead in investigation and prosecution</li> </ul>	<ul style="list-style-type: none"> <li>• Identify “at risk” sites and set out planning enforcement approach</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>

	Example incident	Local authority	Environment Agency	Any flexibility in “local agreement”
10	Clinical Waste/bonded-Asbestos and less than 5m <sup>3</sup> fibrous asbestos	<ul style="list-style-type: none"> <li>• If reported to LA arrange safe disposal, investigate and take appropriate enforcement action – pass information to Agency for action ONLY where frequently repeated offence or organised crime suspected.</li> <li>• LA includes in summary data monthly return on <i>Flycapture</i> for removal and enforcement action where incident passed back to LA</li> <li>• Where waste is asbestos report to HSE</li> </ul>	<ul style="list-style-type: none"> <li>• Pass information to LA for investigation, enforcement and clean-up</li> <li>• ONLY investigate and take enforcement action where frequently repeated offence or organised crime suspected</li> <li>• May arrange removal where actual or imminent threat to human health or environment where there is no adequate response from other responsible body</li> <li>• Inform LA of action taken</li> <li>• Where waste is asbestos report to HSE</li> <li>• Include incident on Agency database where Agency takes the lead on investigation and enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• There may be local agreement re arrangements for removal</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>
11	Greater than 5m <sup>3</sup> fibrous asbestos	<ul style="list-style-type: none"> <li>• If reported to LA, pass information to Agency</li> </ul>	<ul style="list-style-type: none"> <li>• Investigate and enforce</li> <li>• Agency will arrange removal where there is actual or imminent threat to human health or the environment and where there is no adequate response from other responsible body</li> <li>• Inform LA of action taken and inform HSE</li> <li>• Include incident on Agency database where Agency takes the lead on investigation and enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Arrangements for removal</li> </ul>

	Example incident	Local authority	Environment Agency	Any flexibility in “local agreement”
12	Small scale fly-tipping <u>on private land</u>	<ul style="list-style-type: none"> <li>• May investigate and enforce</li> <li>• Enter into <i>Flycapture</i> if LA lead in response</li> <li>• May remove if threat to environment, health or amenity</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• LA and Agency may agree local strategy for tackling fly-tipping and illegal dumping of waste on private land – this will be subject to resource availability</li> <li>• In serious cases of repeated fly-tipping/dumping – ideally advise landowners and occupiers and agree plan of action</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>
13	large-scale illegal dumping on <u>private land</u> : <ul style="list-style-type: none"> <li>• More than a 20m<sup>3</sup> tipper load of waste</li> <li>• Where organised criminals involved</li> <li>• Hazardous waste in drums/containers in excess of 75 litres (16.5 gallons)_</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• May investigate and enforce</li> <li>• Enter on to Agency database if Agency lead in response</li> <li>• May remove if threat to environment or health</li> </ul>	<ul style="list-style-type: none"> <li>• LA and Agency may agree local strategy for tackling fly-tipping and illegal dumping of waste on private land – this will be subject to resource availability</li> <li>• In serious cases of repeated fly-tipping/dumping – ideally advise landowners and occupiers and agree plan of action</li> <li>• Arrangements for keeping each party advised of developments</li> </ul>

**A guide to the Definition of Organised Crime within context of the Agency-LGA fly-tipping protocol**

This note provides guidance on the definition of “organised crime” within the context of the fly-tipping protocol to assist implementation of the protocol by LAs and the Agency.

The National Criminal Intelligence Service (NCIS) suggests a definition of “serious and organised crime” - e.g, football hooliganism may be organised but is not serious organised crime. The fly-tipping protocol has no such distinction and when the term “organised crime” is used, this should be taken to mean “serious and organised”.

in this context, the following characteristics are indicators of organised crime. This is not an exhaustive list nor must all of these characteristics be present in every case to for the crime to be considered as “organised”. However, the more of these characteristics exhibited by a particular case, the stronger the indications are that the crime is organised.

1. Indication of prior planning of the incident or incidents under investigation;
2. Working with others to carry out the offence(s);
3. The perpetrator is involved in crime(s) where they are making or have the potential to make substantial profit or gain;
4. Quasi legitimate structuring of the illegal operations/activities;
5. May be reliant on or involve other professionals such as solicitors, accountants, manager, etc. in the running of the illegal activities/operations;
6. Diverse operations involving more than one activity, perhaps more than one allegedly being illegal and operations not restricted to waste-related activities;
7. Use corruption and coercion (either proven or reliably alleged) to carry out operations/activities;
8. Apparently planned/deliberate subversion of individuals, communities, businesses or institutions to facilitate carrying out operations/activities;
9. Other associated criminal activity which could be large-scale, serious, small-scale, minor, etc;
10. Violence or threats of violence against Agency or local authority officers, the public, other individuals, businesses, Police, etc
11. Track record / previous history of similar activities or offences.

For the purposes of the fly-tipping protocol, waste-crime is **not** considered to be organised if the criminal works alone.