

<p>Title of Report:</p> <p>Update on the introduction of the Fly-tipping Protocol and Article 4 and 5 of Waste and Contaminated Land (Amendment) Act 2011</p>	<p>Officer Presenting:</p> <p>Head of Environment</p> <p>Author:</p> <p>Environment Monitoring Manager</p>
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1 Purpose of Report/Recommendations

- 1.1 To update Members on the implementation of the Fly-tipping Revised Shared Protocol agreement with Northern Ireland Environment Agency (NIEA) as well as the commencement of Articles 4 and 5 of the Waste and Contaminated Land (Amendment) Act (Northern Ireland) 2011.

2 Background

- 2.1 Members will be aware of the Revised Fly-tipping Protocol having previously discussed by Council at an earlier meeting. This revised document replaces the previous arrangements in place between District Councils and the Northern Ireland Environment Agency.
- 2.2 The protocol serves to formalise current operating procedures by defining the roles and responsibilities of the NIEA and local Councils when dealing with fly-tipping and illegal waste deposits.
- 2.3 Under the agreement Councils have responsibility for all non-hazardous waste deposits under 20 cubic metres (approximately a single small lorry load) or accumulations of several small-scale fly-tipping incidents as well as hazardous waste of a type which could ordinarily be accepted at a Recycling Site.
- 2.4 NIEA have responsibility for all waste deposits greater than 20 cubic metres in volume regardless of the waste classification. NIEA also have responsibility for dealing with hazardous waste.

3 Key Issues

- 3.1 In tandem with the introduction of the revised Protocol, commencement orders for Article 4 and 5 of the Waste and Contaminated Land (Amendment) Act (Northern Ireland) 2011 were to be enacted.

- 3.2 These would provide Council with enhanced powers to take action on those who illegally deposit waste and are seen as complimentary to the application of the Protocol.
- 3.3 Article 4 concerns enforcement of fly-tipping and the issuing of Fixed Penalty Notices (FPN) and permits a maximum fine of £400 for offenders. It also provides powers for prosecution where a FPN is not appropriate.
- 3.4 Article 5 relates to Councils enforcing the Duty of Care responsibilities for those involved in handling, transporting, keeping or treating waste.
- 3.5 While Councils are broadly supportive of these additional powers, particularly Article 4, concern has been raised about the implications Article 5 could have. The concern relates to the scope of the duty placed on Councils and the potential burden this may place on current resources.
- 3.6 These concerns have been raised with NIEA which has resulted in a delay to the introduction of both Articles. A working group comprised of Council and NIEA officers has been established to work through concerns raised and work is ongoing in this regard.
- 3.7 As mentioned previously, the introduction of these powers is considered beneficial and has broad support albeit some further clarity is required on the extent of application of Article 5.
- 3.8 Officers are hopeful that the issues raised with NIEA can be resolved as soon as possible to allow commencement of the additional powers and updates will be provided to members as discussions progress.
- 3.9 In the interim however Councils are content to adopt the revised Fly-Tipping Protocol attached as appendix 1.

4 Financial, Equality, Legal, HR, Improvement, Rural Needs and other Implications

- 4.1 There are no immediate financial, equality, legal etc implications associated with this report at this time.
- 4.2 A further report will be brought to Members with regard to Articles 4 and 5 for consideration in due course.

5 Recommendations

5.1 Members are asked to endorse the fly-Tipping Protocol as detailed in Appendix 1.

Background Papers

ER245/19

Appendix 1. Fly-tipping Protocol