

# WIRRAL COUNCIL

## CABINET

15 MARCH 2012

<b>SUBJECT:</b>	<b>STREETSCENE ENFORCEMENT POLICY REVIEW</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF TECHNICAL SERVICES</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>CLLR DAVE MITCHELL, STREETSCENE &amp; TRANSPORT SERVICES</b>
<b>KEY DECISION?</b>	<b>YES</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 This report details a revised Streetscene Enforcement Policy Review and updates Members on progress made with respect to the Streetscene Enforcement Strategy endorsed by Cabinet in October 2008.
- 1.2 The Enforcement Policy Review sets out the framework of legislation and local policies which will be used to deliver the priorities and actions detailed in current and future Corporate and Departmental plans.
- 1.3 The Council has a number of relevant statutory duties and responsibilities including; keeping land and highways clear of litter and waste (Environmental Protection Act 1990), removing abandoned vehicles (Refuse Disposal (Amenity) Act 1978) and protecting the rights of the public to the use and enjoyment of the highway (Highways Act 1980).

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 Wirral Council has adopted an Enforcement Concordat, which sets out general standards and principles that should be applied when undertaking any enforcement activity. The principle of the concordat is that when enforcement or regulation is necessary it is undertaken in a firm but fair manner that is transparent, consistent and proportionate. The concordat was originally adopted by the Council on 5<sup>th</sup> April 2001 [Minute 150 refers] and a full copy of the report is included in **Appendix B** to the report.
- 2.2 In October 2008 the Director of Technical Services reported on a proposed Streetscene Enforcement Strategy and policies that pulled together a number of disparate policies into one document. In addition to setting out the range of enforcement activities undertaken the report also set out standards for service delivery and prioritisation of activity.

- 2.3 On 15<sup>th</sup> April 2010 [Minute 402 refers], a further report was considered by Cabinet which amended the individual policy in relation to the regulation of “A” Boards and Shop Displays on the Highway.
- 2.4 In the intervening period since the 2008 report there have been a number of changes in the structure of the Council that have affected some areas of enforcement responsibility. In particular the areas of Development Control and Building Regulation no longer fall under the Director of Technical Services. Additionally, the continuing pressure on Council funding and the 2010 Early Voluntary Redundancy/retirement scheme has brought about further challenges and has highlighted the need for greater flexibility in both use of the workforce and in delivery of the service in relation to changing demands and resource availability.
- 2.5 When produced, the 2008 report encompassed the areas of Highway and Environmental Enforcement, Parking Enforcement and Streetworks Enforcement. Although these areas remain within the overall enforcement remit, due to the scope and complexity of these areas of regulation and enforcement it is considered that they would be better dealt with in individual separate reports. The Parking Enforcement report is included as a separate item on this agenda and the Streetworks report will be presented to a future meeting at an appropriate time.
- 2.6 Significant progress has been made in delivering the priorities and actions identified within the 2008 report and the following is a summary of progress and recent activity.
- 2.7 In 2010/11 the enforcement team dealt with more than 3500 individual enquiries across a range of enforcement activities including fly tipping, abandoned vehicles, littering, cars for sale on the highway, untidy land and buildings, domestic and trade waste issues, street trading, fly posting, unregulated skips and unauthorised items on the highway. A large majority of enquiries related to fly tipping and domestic waste issues.
- 2.8 In the same period the Council undertook the following actions;
- |   |      |
|---|------|
| Investigations undertaken               | 2008 |
| Fixed penalty notices issues            | 99   |
| Formal notices issued                   | 109  |
| Successful prosecutions                 | 9    |
| Abandoned vehicles removed              | 22   |
| Licences and permits issued, skips etc. | 4756 |
- 2.9 Significant progress has been made in delivering a pro-active enforcement service across a range of activities. The service now delivers a calendar of enforcement campaigns or events covering the following activities, littering, fly tipping, street trading, skip regulation, domestic waste issues, fly posting and items on the highway including shop displays and “A” boards. Proactive enforcement sends a strong message to those who flout the rules and regulations that Wirral Council will not tolerate such activity, which endangers the safety of highway users, and also sends a positive message to Wirral citizens that the Council take such matters seriously.

- 2.10 Greater use is also now being made of the wider pool of resources available to the Council for enforcement activity. In particular staff across a range of service areas both within and outside the Technical Services department have been trained and resourced to undertake litter enforcement to complement their existing roles. These include the dog fouling team, community patrol staff and the waste teams. Additionally, the Council's appointed parking enforcement contractor has also been similarly trained and equipped and now take part in the planned monthly litter campaigns.
- 2.11 To better inform the public and businesses of the Council's services with regard to regulation and enforcement of the highway, the Council's web pages covering these areas have been reviewed and amended to provide more information in order to make it easier to contact the Council or make an enquiry. Specifically in relation to activities of regulation and licensing; for example skips on the highway; a complete website application process has been implemented allowing customers to apply for, pay any necessary fees and to be advised of progress and the final decision; all online.
- 2.12 To compliment and enable reliable and consistent delivery of the enforcement policies, a detailed set of operational procedures for each area of activity has been produced and these are available as a reference resource for all enforcement staff. This is also an invaluable tool for training purposes and to ensure delivery of a consistent quality service.
- 2.13 The Council are raising and improving the profile of the enforcement team by taking a more proactive approach to publicising its successes. Details of successful prosecutions are now routinely passed to the Council's Press Office for media release. Most recently this has included fly tipping, littering and skip regulation cases. Additionally, the service has also recently publicised the new "partner" litter enforcement teams and ongoing campaigns.
- 2.14 The Council is in the process of combining the administration functions within the three areas of enforcement which will improve service delivery and efficiency and greater use is being made of existing "inspector" roles for more generic activities and to act as eyes and ears for the enforcement team.
- 2.15 Although much progress and many changes have already been introduced, in order to continue to deliver a service that is able to meet future public and Council expectations, the service must continue to evolve and develop.
- 2.16 Looking forward, the main focus of this plan is to set a framework to enable delivery of the goals, aims and priorities identified within both current and future Corporate and Departmental plans. This requires a plan built around strong principles and policies but which is flexible and responsive enough to accommodate changing needs, priorities and the resources available to deliver them. In particular, it is proposed that the new plan and policies will enable officers to make qualified decisions and judgements on how best to respond and deal with issues in a way that will improve efficiency, provide a better quality service and reduce complaints.

2.17 In relation to Streetscene enforcement, the overriding priorities as set out in both the existing and new draft corporate plans can be summarised as “helping to create a clean and safe environment free from rubbish and graffiti”.

2.18 The key areas for enforcement activity will remain as:

- Fly tipping on public and private land
- Littering in streets, highways and private land
- Domestic waste issues including contamination and recycling
- Removal of abandoned vehicles (a statutory duty)
- Commercial and trade waste issues
- Unauthorised use of the highway including “A” boards and shop displays
- Dealing with issues of untidy property and land
- Fly posting and graffiti on public and private buildings
- Businesses offering cars for sale and vehicle repairs on the highway
- Unregulated and improperly marked skips on the highway
- Street trading in prohibited and consent streets

2.19 In the 2008 report, an attempt was made to categorise enforcement activities into different priority levels. Although this gave staff clear priorities, this approach can be inefficient as resources are often used to meet or chase targets rather than outcomes and are also less flexible to meet changing demands and needs. Removing this type of prioritisation will improve flexibility and allow more efficient use of resources; for example by allowing officers greater opportunity to better plan and organise workload and journeys.

2.20 Future priorities will be based upon on fulfilling statutory duties, meeting corporate and departmental aims and responding to customers within agreed timescales. Where there are competing demands for use of resources, issues which impact most on the safety of the public or which will bring about the greatest benefit to the widest possible audience will be prioritised highest.

2.21 Our Streetscene enforcement priorities will be;

- To ensure compliance with statutory duties relating to use of the highway and abandoned vehicles.
- To investigate all enquires raised, to undertake relevant actions and to provide timely feedback and responses in accordance with corporate standards.
- To use all available legislation powers and resources to assist in the delivery of corporate and departmental aims and goals.
- To undertake planned proactive campaigns on a range of enforcement activities including but not limited to: littering, fly tipping and domestic waste issues etc.
- To regulate appropriate use of the highway through a system of permits and licensing based upon assessments of risk and by application of appropriate conditions.
- To bring about effective enforcement action including warnings, formal notices and prosecutions as appropriate.
- To engage and work with other departments, organisation and partner agencies on common matters were a joint approach might be beneficial.

2.22 In preparing this report a full review and refresh of the current enforcement policies has been undertaken. This has taken into account any changes in legislation, new information and advice on best practise and lessons learnt. The revised policies provide a clear framework for future enforcement action.

2.23 The format of the policies has also been revised to reduce repetition by grouping together common practices and processes and by putting the scale of penalties, fees and charges into one place for easier referral and future review. The following policies have been reviewed and are included as **Appendix A** to the Report

- LEQ01 Fly tipping investigations and enforcement
- LEQ02 Litter dropping enforcement
- LEQ03 Abandoned vehicle removal
- LEQ04 Enforcement of Litter Clearing Notices
- LEQ05 Enforcement of Street Litter Control Notices
- LEQ06 Fly posting and graffiti
- LEQ07 Control of distribution of free literature
- LEQ08 Obstructions, pavement café licensing, “A” boards and shop displays
- LEQ09 Nuisance vehicles (cars for sale and vehicle repairs on the highway)
- LEQ10 Skips, storage containers and building material on the highway
- LEQ11 Licensing of Street Trading
- LEQ12 Overhanging hedges, trees or shrubs
- LEQ13 Miscellaneous highway enforcement
- WTD01 Enforcement of waste transport legislation
- WTD02 Enforcement of trade waste disposal legislation
- WTD03 Enforcement of domestic/commercial waste and recycling policy
- PLE01 Untidy property and land
- HPE02 Unauthorised Vehicle Crossing (over footway)

2.24 Most of the changes to these policies are minor with the main aim to clarify and simplify the application and interpretation of the powers available for regulation or enforcement actions.

2.25 The determination of penalties, fees and charges is as follows:

- Where penalty levels or a range of penalty levels are specified in the legislation; the level has been set at the maximum permissible.
- Where fees or charges are set locally these are predominantly based on historical levels but should cover all reasonable costs and be competitive in the marketplace.
- Additionally it is proposed that where an option of a discount for early payment is available this should be adopted only for litter and domestic waste offences.

### **3.0 RELEVANT RISKS**

3.1 If the enforcement plan is not implemented the service will continue to provide a day to day reactive response to enforcement activity but without any medium or

long term strategy which in the current challenging environment is less likely to be able meet the future needs of local people and the Council.

#### **4.0 OTHER OPTIONS CONSIDERED**

4.1 None.

#### **5.0 CONSULTATION**

5.1 In preparing this report a range of partners and stakeholders have been consulted to gain a better understanding of those issues most relevant to them and to help develop policies and prioritise resources. In total more than 20 bodies and organisations have been consulted including WIRED, Age Concern, Retail organisations and Chambers of Trade, Residential Social Landlords and highway and pedestrian groups.

#### **6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

6.1 There are none arising specifically from this report.

#### **7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING AND ASSETS**

7.1 There are none arising specifically from this report although the changes to the administration team may require an internal accommodation review.

#### **8.0 LEGAL IMPLICATIONS**

8.1 There are none arising specifically from this report. Legal Services provide advice, guidance and representation as required and are a vital component of the enforcement process.

#### **9.0 EQUALITIES IMPLICATIONS**

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) Yes and impact reviews are attached for Items on the highway and licensing of 'A' boards, shop displays, pavement cafes & other items on the highway and also Enforcement of Fly Posting & Graffiti – <http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010/technical-services-0>

#### **10.0 CARBON REDUCTION IMPLICATIONS**

10.1 There are none arising directly from this report.

#### **11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

11.1 There are no planning implications arising directly from this report. Pavement cafes may require planning permission.

## 12.0 RECOMMENDATION/S

12.1 It is recommended that Cabinet note the contents of the report and that the proposed plan and policies as detailed in the report and Appendix A are adopted.

## 13.0 REASON/S FOR RECOMMENDATION/S

13.1 On 16<sup>th</sup> October 2008 Cabinet endorsed a Streetscene Enforcement Strategy and Policies [Minute 238 refers] that detailed how enforcement activity would be undertaken in the following years. In accordance with best practice and to ensure the continuing delivery of an enforcement service that meets the current and future needs of local people and the Council the strategies and policies have been reviewed and revised.

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## APPENDICES

Appendix A: Policies and Scales of Penalties and Fees

Appendix B: Enforcement Concordat

## REFERENCE MATERIAL

None

## SUBJECT HISTORY (last 3 years)

<b>Council Meeting</b>	<b>Date</b>
Cabinet - Streetscene Enforcement Strategy and Policies	16 <sup>th</sup> October 2008
Cabinet – Review of “A” Boards and Shop Displays on the Highway	15 <sup>th</sup> April 2010