

Runnymede Borough Council  
ENVIRONMENT AND SUSTAINABILITY COMMITTEE

21 March at 7.30pm

Members of the Committee present: Councillors Mrs G Warner (Chairman) D A Cotty (Vice-Chairman)  
R J Edis, T J F E Gracey, Mrs M T Harnden, D J Knight,  
Miss J K Sohi, P Snow and N Wase-Rogers

Members of the Committee absent: Councillor M L Willingale

548. FIRE PRECAUTIONS

The Chairman read out the Fire Precautions.

549. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

The Group mentioned below had notified the Chief Executive of their wish that the change listed below be made to the membership of the Committee. The change was for a fixed period ending on the day after the meeting and thereafter the Councillor removed would be reappointed.

<b>Group</b>	<b>Remove from Membership</b>	<b>Appoint Instead</b>
Conservative	Councillor M T Kusneraitis	Councillor P Snow

The Chief Executive had given effect to this request in accordance with Section 16(2) of the Local Government and Housing Act 1989.

550. MINUTES

The Minutes of the meeting of the Committee held on 22 November 2018 were confirmed and signed as a correct record.

551. ENVIRONMENTAL SERVICES AND PRIVATE SECTOR HOUSING ENFORCEMENT POLICIES, ENVIRONMENTAL CRIME, FIXED PENALTY AND CIVIL PENALTY NOTICE ENFORCEMENT PROTOCOL

The Committee was asked to endorse and approve the updated Environmental Services and Private Sector Housing Enforcement Policies and the adoption of the Environmental Crime, Fixed Penalty and Civil Penalty Notice Enforcement Protocol.

Members were advised that since its last update in 2015 the Council's Environmental Services Enforcement Policy had been subject to administrative amendment, revision and updating on a continuous basis under delegated Officer authorisation. The overall ethos of the policy had remained unchanged. Members were informed that the use of fixed penalty and financial penalty notice sanctions as an alternative to prosecution provided for under the Environmental Health legislation had dramatically increased over the last couple of years and the latest update of the Enforcement policy reflected this. The policy outlined the general approach to how the Council dealt with enforcement issues.

The Private Sector Housing enforcement policy had also been updated which, whilst coming under the umbrella of the Environment Services Enforcement Policy it specifically dealt with private sector housing legislation, including housing in multiple occupation. In addition given the number of fixed penalty notices available to deal with environmental crime offences, a separate Enforcement Protocol had been drawn up to cover this area of work.

Members were particularly pleased to note the openness paragraph contained within the Environmental Services Enforcement Policy. This detailed how the Council would provide information, discuss and be open about the work undertaken and the charges set.

With regards to the Fixed Penalty and Civil Penalty Notice Enforcement Protocol, it was noted that a Fixed Penalty Notice (FPN) could be served up to a maximum of three months after the date of the offence. Members sought reassurance from Officers that no delays took place on the issuing FPN's within the three month period. Officers reassured Members that FPN's were issued well within the three month period set and no delays occurred.

**RESOLVED that –**

- i) the updated Environmental Services and Private Sector Housing Enforcement Policies be approved; and**
- ii) the Environmental Crime, Fixed Penalty and Civil Penalty Notice Enforcement Protocol, be adopted**

552. AIR QUALITY UPDATE

The Committee was provided with the estimated costings for the purchase of an analyser that could measure particulate matter at and below the 2.4 micrometre level (PM<sub>2.5</sub>).

Following a meeting of this Committee on 22 November 2018 it was resolved that 'Officers cost and identify the method, cost and location of sampling the levels of PM<sub>2.5</sub> in the Borough in readiness of the Government's targets to be reached in 2020'.

PM<sub>2.5</sub> were very fine inhalable particles, with diameters of 2.5 micrometres and smaller. Since PM<sub>2.5</sub> were small in size they had the ability to penetrate deep into the respiratory tract and had been linked to effects such as: cardiovascular symptoms; cardiac arrhythmias; heart attacks; respiratory symptoms; asthma attacks; and bronchitis.

There was no statutory duty placed on the local authority to monitor PM<sub>2.5</sub> under the Local Air Quality Management (LAQM) Regulations and it was recognised by Government that the costs involved in doing so could be prohibitive.

Members were advised that in order to monitor PM<sub>2.5</sub> there were two options in terms of automated instruments. A Filter Dynamic Measurement System (FDMS) and the Beta Attenuation Monitor (BAM). Generally the FDMS analyser was more expensive and therefore Officers had obtained costs of a BAM monitor for consideration.

The indicative cost was £23,725. However there would be a requirement to install electrical power (£2,000), lay a base for the unit to be mounted on (£600), cost of electricity for one year's operation (£600), data collection and quality assurance checking (£1,800), and consumables (£900). Therefore the total price for supply and installation of the monitor in the first year would be £29,625. Additionally, a provisional sum of £6,000

needed to be added for Procurement, running costs and projected Officer costs for one year which brought the total cost to £35,625. There would be running costs per year thereafter of £6,300.

Officers advised the Committee that it was expected that the statutory duty, when introduced would come under the remit of Central Government and therefore any investment at Borough level at this time was not considered appropriate.

#### 553. DUTY OF CARE, AS RESPECTS WASTE (FIXED PENALTIES)

The Committee was informed that the Environmental Protection (Miscellaneous Amendment) (England and Wales) Regulations 2018 inserted provisions into the Environmental Protection Act 1990 ('the Act') to allow a waste collection authority (WCA) in England to issue a fixed penalty notice (FPN) for contravention of section 34(2a) of the Act. Section 34 (2a) imposed a duty on the occupier of a domestic property in England (or Wales) to take all such measures available to him as were reasonable in the circumstances to secure that any transfer by him of household waste produced on the property was only to an authorised person or a person for authorised transport purposes.

Officers advised the Committee that Section 34 also imposed a 'duty of care' on a number of persons with respect to waste. A person who contravened any of these provisions committed an offence and was liable to prosecution either summary or on indictment. Presently, persons importing, producing, carrying, keeping, treating or disposing of waste who breached their duty of care could be issued with fixed penalty notices (FPN's) as an alternative to prosecution. However, occupiers of domestic properties failing in their duty of care could only be dealt with via the courts.

The new 2018 Regulations now brought the domestic occupier in line with other persons and allowed for contraventions to be dealt with by the service of a FPN. A fine of not less than £150 and not more than £400 as specified by the waste collection authority could be imposed via the service of a FPN to deal with the duty of care offence (£200 if no amount is specified). Recognised fly tips could range from a single bag of waste up to a lorry load and by specifying two amounts, £150 at the lower end and £400 at the upper end provided the Council with an element of discretion. If fines were paid within 10 days the amount would be reduced by 20% to £120 and £320 respectively. This was in line with the reduction applied by the Council with regard to other environmental crimes.

Members fully supported this approach and considered the fees set out to be just and fair. It was also noted that the fees proposed were comparable to fees set by other boroughs.

Officers were asked how the new Regulations were being published and promoted. Officers advised Members that 'opportunistic' promotion via social media had taken place, for example, following incidents of fly tipping. General promotion of the new Regulations was due to be rolled out by the communications team in the coming months.

#### **RESOLVED that –**

- i) the coming into force of The Environmental Protection (Miscellaneous Amendment) (England and Wales) Regulations 2018 be noted and delegated authority to the CDPES and the EH&L Manager to authorise any employees of RBC and other persons who, in pursuance of arrangements made by the authority, has the function of giving such notices, as "authorised Officers" for the purposes of giving notices under section 34(ZA) of the Act requiring the payment of fixed**

- penalties under the same Act and associated regulations made under it, be approved; and
- ii) **the amount of fixed penalty specified by the Council at two levels, £150 in respect of low level 'duty of care' offences e.g. single items of waste etc. and £400 in respect of higher level 'duty of care' offences e.g. multiple items, with a lesser amount of £120 (low level) and £320 (higher level) specified for treating the fixed penalty as having been paid if paid before the end of the period of 10 days following the date of the notice, be approved.**

#### 554. CONTAMINATED LAND INVESTIGATION

By resolution of the Committee, the press and public were excluded from the meeting during the consideration of this matter under Section 100A (4) of the Local Government Act 1972 on the grounds that the discussion would be likely to involve the disclosure of exempt information of the description specified in paragraph 3 of Schedule 12A to Part 1 of the Act.

Members were asked to note the proposed contaminated land investigations and endorse the proposed phase 3 investigations. Approval was also sought for a request to Corporate Management Committee for a supplementary estimate of £10,000 to cover the shortfall for the proposed phase 3 investigation costs.

The current RBC Contaminated Land Strategy required the Council to carry out contaminated land investigations of potential sites within its boundary to meet statutory requirements under the Environmental Protection Act 1990. In January 2018 Members of this Committee endorsed proposed land investigations work at a site in the Borough. Phase 1 initial intrusive investigations were completed in June 2018 and the results of that investigation confirmed the presence of a range of contaminants at communal verges. Phase 2 work was undertaken in December 2018. Whilst the phase 2 report had not yet been finalised the initial screen of contaminants found included low concentrate asbestos, Polycyclic Aromatic Hydrocarbons and metals.

Based on the Phase 2 finding it was likely that phase 3 investigations would complete the investigations and that remediation would be required.

Members fully supported undertaking the phase 3 investigations as it was considered responsible and necessary for the further investigations to be undertaken. Members were reassured that Officers had engaged with affected residents.

#### **RESOLVED that –**

- i) **the proposed contaminated land investigations be noted and the proposed phase 3 investigations be endorsed; and**
- ii) **Corporate Management Committee be requested to approve a supplementary estimate of £10,000 to cover the shortfall for the proposed phase 3 investigation cost**

(The meeting ended at 7.56pm)

Chairman