

Item No.	Classification: Open	Date: 17.6.03	MEETING NAME Executive
Report title:		Motion Submitted in accordance with Council Procedure Rule 3.9 – Fly Tipping	
Ward(s) or groups affected:		All	
From:		Chief Executive (Borough Solicitor & Secretary)	

RECOMMENDATION(S)

1. That the Executive consider the motion as set out in paragraph 5 below.

BACKGROUND INFORMATION

2. The Executive considered this motion at its last meeting and agreed to defer consideration of the item pending financial information in relation to paragraph (iv) of the motion.
3. The Strategic Director of Environment and Leisure has advised that there is ongoing liaison with the Environment Agency with a view to maximising the powers available to both the Environment Agency and the Council. The recent Waste Management & Transport reorganisation created a capacity to deliver additional enforcement activity, therefore there would be no additional cost to the Council in undertaking this work.
4. At the Council Assembly meeting on 26th March 2003 a motion was submitted in accordance with Council Procedure Rule 3.9 (1) by Councillor Lisa Rajan and seconded by Councillor Gavin O'Brien.
5. Council Assembly considered the motion and subsequently referred it to the Executive for consideration :-

'Council notes

- (i) the problem of fly-tipping in Southwark and the limited powers available to local authorities in dealing with this problem.
- (ii) Council notes further that the Environment Agency, but not Southwark Council, has the power to stop vehicles carrying spoil and to demand to see their waste transfer license.
- (iii) Council calls on the Government to give local authorities the same powers as it currently gives to the Environment Agency so that councils can effectively tackle this aspect of environmental crime.
- (iv) Council calls on the Executive to report to Council on the following:

How they would see joint working with the environment agency proceeding.

How much they estimate this would cost the Council.

From where they envisage the additional resources being found.'

KEY ISSUES FOR CONSIDERATION

4. In accordance with Council Procedure Rule 3.9 (3), the above motion was referred to the Executive, which shall report upon the outcome of their deliberations upon the motion to the next meeting of Council Assembly.
5. The constitution allocates particular responsibility for functions to Council Assembly, for approving the budget and policy framework, and to the Executive, for developing and implementing the budget and policy framework and overseeing the running of Council services on a day-to-day basis
6. Any key issues, policy or funding implications are included in the advice from the Strategic Director Environment and Leisure.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

COMMENT OF THE STRATEGIC DIRECTOR OF ENVIRONMENT AND LEISURE

The quantity of fly tipped material in Southwark has almost doubled since 1998/99. A considerable factor in this increase is the amount of spoil we are now finding dumped around certain parts of the borough.

One of the problems that all local authorities are facing in effectively tackling this issue is the lack of powers to stop vehicles that are carrying waste to ascertain if they are licensed waste carriers as defined in the Control of Pollution Act.

Currently this power is only held by the Environment Agency and whilst the Council is committed to work developing and continuing partnership with the Environment Agency to help deliver a cleaner borough, the resources dedicated to the undertaking enforcement activity in relation to fly tipping by the Environment Agency is very minimal, and as such any joint working is done on an infrequent basis and in response to specific requests from the Council. Therefore there is a need to bring about changes in legislation that enables local authorities to effectively deal with this growing problem.

The recent reorganisation of the Waste Management will increase the resources allocated to reducing and combating fly tipping and other forms of enviro-crime by creating a dedicated team of 14 officers. This means the Council has the ability and capacity within existing resources to utilise the powers currently held by the Environment Agency. This devolution of powers would significantly strengthen our scope to combat this form of enviro-crime.

The Council (once the legislation has been amended) would carryout bimonthly roadside checks with the Police and liaise with the Environment Agency to identify and pursue those who are not authorised waste carriers. There will be incidents whereby Council officers will utilise the amended legislation whilst carrying out their general duties. For example, if a vehicle had been stopped by the Police as a result

of being caught fly tipping, the council could use its powers to secure a prosecution for unauthorised waste carrying.

This motion if past would support the Council's lobbying in seeking changes in legislation that will allow us to;

- Seize vehicles involved in fly-tipping
- Stop vehicles that are carrying waste
- Have the authority to carryout roadside checks on unregistered waste carriers

In addition, we would wish to push for a change in the scope of legislation that would allow the use of fixed penalty notices for those when stopped who are found to be unregistered waste carriers.

As a precedent to the devolution of powers held by the Environment Agency, from 20 February 2003 the government have amended section 34 of the Environmental Protection Act 1990. This means the Council now has the power to inspect all waste transfer notes that businesses have a duty to keep. Failure to adhere to any of the statutory duties outlined in section 34 of the EPA or if businesses fail to produce their waste transfer note they will render themselves liable to prosecution. Previously this power was held only by the Environment Agency.

Background Papers	Held At	Contact
Motions submitted in accordance with Standing Order 3.9 (1).	Town Hall, Peckham Road, London. SE5 8UB	Lesley John Constitutional Support Unit 020 7525 7228

APPENDIX A

Audit Trail

Lead Officer	Ian Millichap, Constitutional Support Manager (Executive)	
Report Author	Everton Roberts, Constitutional Support Unit	
Version	Final Version	
Dated	9 th June 2003	
Key Decision?		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Chief Officer	Yes	Yes
Executive Member	No	No
Date final report sent to Constitutional Support Services		