

Report on	Fly Tipping Protocol
Date of Meeting	13 th October 2020
Reporting Officer	Andrew Cassells, Director of Environment & Property
Contact Officer	Mark McAdoo, Head of Environmental Services

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

1.0	Purpose of Report
1.1	To seek approval to agree a new Fly-Tipping Protocol with NI Environment Agency.
2.0	Background
2.1	Fly-tipping <i>"is the illegal disposal of household, industrial, commercial or other controlled waste without a waste management licence. The waste can be liquid or solid. Fly tipping is not the same as littering as litter is often dropped habitually, sometimes accidentally, and usually involves only single, small waste items – fly tipping is larger in scale and is usually considered to be a premeditated, wilful act.</i>
2.2	The fly-tipping of waste remains a high-profile environmental issue. It is a criminal activity that can blight communities and reduces the quality of life for residents. It can often begin a spiral of decline and has the potential to cause serious pollution to the environment. In some cases, it may also be a risk to human health as well as causing harm to the environment. The incidence of fly-tipping is a further demand on the revenue budgets of local Councils and the Northern Ireland Environment Agency (NIEA) which needs to be addressed collaboratively as both the NIEA and local Councils have powers and responsibilities to deal with the issue.
3.0	Main Report
3.1	Work has been ongoing for some time in relation to a co-designed operational "fly-tipping protocol" with the aim of clarifying the demarcation of responsibility between the NIEA and local Councils in dealing with illegal waste deposits (primarily with regard to the clean-up of waste rather than enforcement issues).
3.2	A fly-tipping protocol had previously been agreed and implemented as a "pilot" from 2012. Prior to the reform of local government in 2015, 21 of the then 26 Councils had signed up to the protocol (including Magherafelt and Cookstown).
3.3	However, following the reduction from 26 to 11 Councils it was necessary to review and update the protocol and agree same with the new statutory bodies. Subsequently in 2018 the Local Government and Central Government Waste Working Group (GWWG) through an appointed Fly-Tipping Subgroup (FTSG) took on the work of updating the protocol for agreement with the new Councils.

3.4	<p>In 2019 the FTSG (consisting of representatives from NIEA and three Councils including Mid Ulster) produced a revised draft protocol, and the CEO of NIEA then wrote to all 11 Councils seeking their commitment to sign up to this revised protocol, advising that the commencement of relevant legislation would follow.</p>
3.5	<p>NIEA received responses from all 11 Councils with 4 agreeing to commit to the revised protocol and 7 not agreeing at the time of writing. Those Councils which have not committed to the revised protocol are of the opinion that there has been insufficient engagement and discussion around 4 key areas as outlined below:</p> <ul style="list-style-type: none"> <li data-bbox="277 589 1410 741">(i) <u>Article 5 (Duty of Care) of 1997 Waste & Contaminated Land (NI) Order</u> Some Councils believe that the protocol does not provide sufficient detail on the specific roles and responsibilities imposed on a council in respect of its role as an enforcing authority under Article 5 of the Order. <li data-bbox="277 775 1410 927">(ii) <u>Regulatory Impact Assessment</u> Some Councils have expressed concerns that a regulatory impact assessment has not been carried out regarding the legislative changes and potential additional costs which may be incurred by councils. <li data-bbox="277 960 1410 1113">(iii) <u>Hazardous Wastes</u> Some Councils have expressed the view that they do not have the technical ability to deal with the clean-up and treatment of hazardous wastes for which they believe the council would bear responsibility for. <li data-bbox="277 1146 1410 1299">(iv) <u>Data Collection Reporting</u> A small number of Councils consider that the requirement within the protocol for them to collect and provide statistical data to NIEA in relation to fly-tipping incidents dealt with would be problematic.
3.6	<p>Due to the above concerns no Council has yet formally signed up to the revised protocol. However, in order to move matters forward it has been agreed that further discussion will take place between NIEA and Councils on Article 5 issues i.e. items (i) and (ii) above to include more engagement with representatives from Environmental Health which has enforcement responsibilities. With regard to items (iii) and (iv) (which relate more to Article 4 of the Order) the following is proposed in order to enable this Council to sign up a revised fly-tipping protocol:</p> <ul style="list-style-type: none"> <li data-bbox="277 1621 1410 1733">• Specific amendments made to the protocol (copy attached) to address the concerns relating to hazardous waste and to clarify that the Council will not be held responsible for the removal of fly-tipped waste from private land; <li data-bbox="277 1733 1410 1836">• Mid Ulster District Council will participate in the piloting of a bespoke App for the recording and reporting of fly-tipping incidents in the district - to be developed in conjunction with NIEA and Strategic Investment Board (SIB).

4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: Council will be responsible for clean-up costs for fly-tipping incidents for which it bears responsibility under the terms of the protocol (as was the case previously).
	Human: Employee time/costs involved in clean-of incidents as per above.
	Risk Management: Failure to deal with fly-tipping could lead to pollution and adverse publicity.
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: None
	Rural Needs Implications: None
5.0	Recommendation(s)
5.1	Members are requested to note the content of this report and to approve the amended fly-tipping protocol for agreement with the NI Environment Agency.
6.0	Documents Attached & References
6.1	Proposed Fly-Tipping Protocol with NIEA (incorporating MUDC amendments)