

Argyll and Bute Council

Scrutiny Report

May 2022

DRAFT

# Fly-Tipping

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## 1. Executive Summary

### Introduction

1. As part of Argyll and Bute Council's (the Council) 2021/22 scrutiny plan, approved by the Audit & Scrutiny Committee (the Committee) in June 2021, we have undertaken a scrutiny review of Fly-tipping.
2. Throughout this report references to 'the Panel' refers to the Vice-Chair of the Committee and two Committee members who conducted this review. They were:
  - Councillor Lynch (Panel Chair)
  - Councillor Freeman
  - Councillor Vennard
3. The Panel was supported by council officers who gave willingly of their time to help deliver the review. We would like to extend our appreciation for the co-operation and assistance received from all witnesses invited to provide evidence over the course of the review.

### Objectives

4. The agreed objectives of the scrutiny review were to:
  - ensure the Council's systems record sufficient information to provide an indication of the extent of fly-tipping across the four administrative areas
  - ensure the Council's duty to investigate, clear and take appropriate enforcement action in relation to fly-tipping on public land is appropriately managed
  - ensure there is good collaborative working arrangements in place
  - ensure that the Council's charging structure is fair and proportionate across all businesses

### Background

5. Fly-tipping is "the illegal deposit of any waste onto land, i.e. waste dumped or tipped on a site with no licence to accept waste", it affects the aesthetic appeal of an area and causes damage to the environment. Waste can include: general household items; larger domestic appliances and furniture; garden refuse and commercial refuse such as construction materials and tyres, sometimes waste materials may be hazardous to health, wildlife or the ecosystem.
6. Businesses and Individuals are responsible for disposing of their own waste, the Council is responsible for clearing waste from streets and public areas as set out in the Environmental Protection Act 1990. The Council has a target of five working days to clear fly-tipping and one day for hazardous waste. Clearance of fly-tipping imposes significant financial costs on national and local government, businesses and other organisations, many of these costs are ultimately borne by the public, either as taxpayers or customers.
7. The Council charges for disposal of commercial waste at civic amenity sites and also for larger item uplifts from the customer's property. There can be quite differing motivations resulting in fly-tipping behaviour such as economic savings from the avoidance of disposal fees/uplift costs, ignorance of services available or criminal activity. Successful countermeasures include waste management infrastructure, education/awareness raising and enforcement measures.

8. According to Zero Waste Scotland research in 2013, around 26k tonnes of material is fly-tipped across Scotland every year with an annual direct cost of £11 million, there were also indirect costs but these were difficult to quantify. Scottish Government and Marine Scotland published their litter strategies in 2014 and provide a collection of online resources with a focus on prevention and encouraging individuals to take personal responsibility. A fixed penalty of £200 for fly-tipping was also introduced at that time and if convicted this can rise to a maximum of £40k or 12 months imprisonment for the offender. Environmental Wardens will attempt identify the fly-tipping offenders with a view to issuing a fixed penalty, however, no fixed penalties notices were issued by the Council in the years 2019-20 and 2020-21.
9. Fly-tipping can be reported by visiting or phoning the Council's Customer Service Centre, instances can also be reported online via the Council's, Zero Waste Scotland's and SEPA's websites. The Council employs four Environmental Wardens who work in collaboration with partner organisations to deal with instances of fly-tipping, the organisation responsible for clearance will depend on the location, nature and content of the materials discarded and whether they are of a hazardous nature.
10. The tables below indicates the number of fly-tipping reports received by the Council's Customer Service Centre and the number of hours the wardens have spent on dealing with litter & fly-tipping in the years 2019-20 and 2020-21. (Hours expended by Environmental Wardens and additional Amenity Services employees to deal with fly-tipping were not recorded separately at the time of the review.)

Number of reports of fly-tipping received by the Council's Customer Service Centre:

	B & C		H & L		MAKI		OLI		Area Not specified		TOTAL	
	19/20	20/21	19/20	20/21	19/20	20/21	19/20	20/21	19/20	20/21	19/20	20/21
<b>Incident service request</b>	70	72	127	140	48	33	40	57	0	0	285	302
<b>Enquiry only</b>	3	3	11	3	1	1	8	1	24	32	47	40
<b>Member Enquiry only</b>	1	0	0	0	0	0	0	0	0	0	1	0
<b>TOTAL</b>	<b>74</b>	<b>75</b>	<b>138</b>	<b>143</b>	<b>49</b>	<b>34</b>	<b>48</b>	<b>58</b>	<b>24</b>	<b>32</b>	<b>333</b>	<b>342</b>

Number of hours spent by wardens addressing litter/fly-tipping issues is as follows:

Area	2019/20			2020/21		
	Hours	% warden time	Recharge £	Hours	% warden time	Recharge £
<b>B &amp; C</b>	304.5	11.49	8,521.00	208.25	11.67	6,501.97
<b>H &amp; L</b>	223.75	11.87	6,261.32	450.25	29.25	9,452.43
<b>OLI</b>	344.75	18.97	9,647.33	302.75	24.52	14,057.66
<b>MAKI</b>	29.5	13.01	825.52	76.5	20.93	2,388.48
<b>TOTALS</b>	902.5		25,255.17	1037.75		32,400.54

11. Local Environmental Audit and Management System (LEAMS) has been the national performance indicator for street litter cleanliness since 2003/04. It is part of Keep Scotland

Beautiful (KSB), a registered charity set up to monitor issues such as litter, dog fouling, fly-tipping, fly-posting and graffiti and in partnership with Scottish Councils was originally developed to help meet obligations under best value using a combination of self and independent monitoring. The Council participates in this programme along with 30 other Scottish Councils by completing and submitting monthly self-assessments and six-monthly independent assessments. Below is an extract from the 2020-21 Local Environmental Audit and Management System (LEAMS) Report providing a summary of fly-tipping statistics and comparison with previous year, national and benchmarking club statistics. Associated commentary advised that there was a general localised hotspot issue with instances in other areas infrequently observed.

Table 1.

	Argyll and Bute Council 2020/21	Argyll and Bute Council 2019/20	National 2020/21	Benchmarking Club 2020/21
Sites impacted by fly-tipping	3.7%	3.3%	3.9%	2.2%

### Scrutiny Initiation Briefings – 02 November 2021 and 13 January 2022

12. In October 2021 scrutiny officers circulated a briefing paper to the Panel which provided background on fly-tipping. The Panel met to agree the scope and identify invitees to give evidence at a panel meeting.
13. The agreed scope was to:
  - establish extent of fly-tipping problem in the Argyll and Bute area
  - assess compliance with duty to investigate, clear and take enforcement action
  - consider success of collaborative working
  - consider level of fees and charges and the possible correlation with fly-tipping incidents.
14. The Panel agreed that they should meet with appropriate representatives of the groups set out in Exhibit 1.

#### Exhibit 1 – Scrutiny Meetings

Group	Key Areas for Discussion
Council Officer(s)	<ul style="list-style-type: none"> <li>• Compliance with legislation and national guidance</li> <li>• records indicating the volume, content and extent of fly-tipping across the Council area</li> <li>• records indicating the time expended by Council officers and the associated costs to investigate, clear and take enforcement action</li> <li>• resourcing of the environmental warden service</li> <li>• appropriateness of charging structure to dispose of waste legally and whether these charges deter use of the service resulting in fly-tipping</li> <li>• measures taken to educate residents to reduce fly-tipping instances</li> <li>• outcomes and success measures of collaborative working</li> <li>• benchmarking with other Councils</li> </ul>

## 2. Scrutiny Meeting

### Scrutiny Meeting – Council Officers – 02 March 2022

15. The meeting consisted of the Head of Roads and Infrastructure Services and the Operations Manager who has responsibility for both the Environmental Wardens and Amenity Services. The key messages reflecting the views of the Council officers who attended, from this meeting are set out in Exhibit 2.

#### Exhibit 2 – Scrutiny Meeting 1 – Council Officers - Key Messages

Theme	Detail
Compliance with legislation	<p>The Council is legally required to clear waste fly-tipped on public land, there is a target of five days to do this and one day if the materials are considered to be harmful.</p> <p>LEAMS is the national performance indicator for street cleanliness, published reports indicate positive results for the Council.</p>
Extent of fly-tipping across Argyll and Bute	<p>Management considers that Argyll and Bute Council does not have the increasing issue with fly-tipping that is being experienced by other Councils, they are aware of only six incidents during the COVID-19 lockdown period.</p> <p>Incidents experienced are infrequent and take up a small percentage of the environmental warden's time.</p> <p>Waste is mostly composed of construction materials, tyres, white goods and other larger household items, there can also be seasonal materials such as gardening waste. Other instances occur where bins are overflowing and waste is left beside them.</p> <p>Reports of fly-tipping are received via the Council's Customer Service Centre and passed to Roads and Infrastructure Services for action. Wardens will investigate the location as soon as possible to avoid escalation of an occurrence.</p> <p>Some reports received relate to materials fly-tipped on private land, however, this is the responsibility of the landowner who will have to make arrangements and cover costs associated with its removal. In general, private landowners are not pursued to clear the waste unless it is positioned near Council land and it is likely to encroach.</p>
Record-keeping	<p>An Environment Agency system called "Flycapture" was used to record fly-tipping data between 2009 and 2014, however, this system was withdrawn from use in 2014 and no alternative has been implemented for recording of data.</p> <p>Wardens and operational supervisors are aware of hotspots for fly-tipping but these are not recorded.</p> <p>The Customer Service Centre reports indicate that 285 incidents of fly tipping were received in the year 2019-20 and this raised to 302 in the year</p>

	<p>2020-21. Service management are aware of only six incidents of fly-tipping during the lockdown period of 2020 and consider there may be inconsistencies in the classification being used by the Customer Service Centre staff when recording information received, some calls may have been passed to Environmental Health or SEPA to action depending on the materials involved.</p> <p>There was insufficient detail to provide the number of instances per 10k population to perform a comparison across the Council's four administrative areas. Management considers that all areas are facing similar problems.</p> <p>Warden's timesheets have recently been adapted to separate fly-tipping from other duties to provide a better indication of the time expended responding to fly-tipping incidents.</p>
Measures taken to prevent fly-tipping	<p>A fixed penalty of £200 was introduced in 2014, if the offender is convicted this can rise to £40k or 12 months imprisonment.</p> <p>The Council participates in national campaigns run by Zero Waste Scotland and Keep Scotland Beautiful.</p> <p>Wardens monitor hotspots and visit fast food outlets and schools to provide educational materials and discuss issues of littering, fly-tipping and dog fouling.</p>
Warden Resources	<p>Due to budget savings in 2018-19, Environmental Wardens were reduced from nine to four, they are located across the Council area as follows: one in Helensburgh and Lomond (HL), one in the Oban Lorn and the Isles (OLI) and two in Cowal and Bute (CB). Mid-Argyll, Kintyre and Islay (MAKI) is covered by the environmental wardens located in CB and OLI. Four seasonal staycation wardens are also recruited over the tourist season.</p> <p>Travel time expended by the Environmental Wardens to cover the MAKI area is significant, however, it is unclear from the information provided if this coverage is sufficient.</p>
Collaboration with partner organisations	<p>The Council works very closely with the Scottish Environment Protection Agency (SEPA), Police Scotland, National Farmers Union (NFU) and Registered Social Landlords (RSLs).</p> <p>Environment Wardens and Police Officers jointly patrol areas with regards to littering and fly-tipping, members of the NFU are also brought on board where issues concern the protection of livestock.</p> <p>The Council works well with partnership organisation at all times and particularly well when new accommodation is being built so that any difficulties servicing waste can be identified and resolved prior to issues arising.</p>

	<p>Successful partnership arrangements have been in place with organisations to recycle or reuse items such as furniture and bicycles. The Mull and Iona Community Trust (MICT) is particularly well established and resells items from their premises in Craignure, The Group for Recycling in Argyll and Bute (GRAB) Trust collects items from containers at the RENEWI Waste Disposal site and the Kintyre Recycling Ltd resells items from its premises in Campbeltown and repairs discarded and donated bikes for lending or reselling. MICT wardens have also acted as corroborating officers to save our Environment Wardens having to travel to Mull.</p> <p>The Council also works very closely with the National Park Authority as they operate within our boundaries.</p> <p>Two previous partnership arrangements were less successful based at the Blackhill Civic Amenity Site in the Helensburgh area, unfortunately items were not being taken away for deployment and break ins and damage occurred at the site.</p> <p>There is also some joint working with West Dunbartonshire Council as a neighbouring authority but there were some legalities regarding responsibilities, this will be revisited prior to the start of the new season to discuss ways of assisting each other. There are also some discussions on potential joint waste transfer stations as we progress towards the Biodegradable Municipal Landfill ban that comes in to force in December 2025.</p> <p>The RENEWI contractors and Council officers have been working together to manage commercial vehicles using domestic waste facilities at the civic amenity sites to avoid charges. It can be quite difficult for the site operatives to determine if waste is commercial or domestic, service users may be challenged by the site operative who may follow-up to determine whether they are a legitimate private user.</p> <p>Management is always prepared to enter discussions with organisation regarding any future partnership arrangements.</p>
<p>Cost to Council to recover fly-tipping Vs waste disposal and uplift charges to customers</p>	<p>Commercial waste disposed of at a civic amenity site is chargeable whereas domestic waste is free. Special uplifts are chargeable at both domestic and commercial premises although there are different rates for these.</p> <p>Council operated waste disposal sites require commercial customers to purchase a permit and submit a ticket each time the facility is used, where RENEWI operates the site, a commercial arrangement is in place between them and the customer and this is covered in the Public Private Partnership (PPP) contract between the Council and RENEWI.</p> <p>The Council would have to cover the cost of taking waste materials to landfill if charges for special uplifts were reduced, this would be detrimental from a business point of view. There is also a landfill tax that must be paid for every tonne of waste sent, this is set at £98.60 for the 2022/23 tax year, and this in addition to tipping and processing costs would be significant.</p>



	<p>A decrease in charges for disposal of waste would result in an increase in the volume being sent to landfill which is against Scottish and UK Governments aspirations in reducing waste to landfill.</p> <p>Council management considers current fees and charges are set at an appropriate level and should not be reduced.</p>
Deterrents	<p>Wardens check the fly-tipped waste for any indication of ownership such as mailing address prior to removing for disposal if size permits, larger items require larger vehicles operated by Amenity Services. If ownership can be determined a fixed penalty can be enforced. An example includes a landscape gardener who had been identified as an offender, as news of this was cascaded across that area there has been no recurrence of fly-tipping.</p> <p>CCTV has been used at waste disposal sites and at temporary locations to collect information to follow-up on where appropriate. There is a lengthy process and specific training required to implement use of CCTV, the duration of use must be clearly stated and recorded.</p> <p>Local Authorities are not permitted to use Automatic Number Plate Recognition (ANPR) devices in car parks and it is not clear whether they can be used in waste disposal sites as they are more commonly used in un-manned facilities. Health and Safety requires that waste disposal sites are manned.</p> <p>DVLA information can be requested where car parking fines are not paid within 15 days but there are stringent forms to fill in to justify checking up on someone's number plate. Staff at waste disposal sites take notes of number plates to check if they attend the site on a regular basis, this can only be used if criminal activity is suspected and Police Scotland would be contacted.</p>

### 3. Overall Conclusion and Findings

16. Based on the information obtained over the course of the review the Panel has concluded that:
- The Council is fulfilling its duty to keep public areas clean and have received positive outcomes in their LEAMS Report.
  - There is insufficient reliable data available to form an opinion on the extent of fly-tipping across the Council's four administrative areas, the service costs incurred and whether the current charging structure is appropriate.
  - The Council has good collaborative working arrangements with external organisations.
17. The review has identified three findings which have been discussed with management. These, and the management responses, are detailed in Exhibit 4.

## Exhibit 4 – Findings

No.	Recommendations	Management Response
1	Service Management should liaise with the Customer Service Centre to establish the root cause of conflicting information presented to the panel for review and consider a consistent approach for recording information received in future.	A meeting with Customer Service Centre Management has been arranged to discuss this week ending 3 June 2022.
2	Records pertaining to fly-tipping incidents and associated costs should be maintained and made available for review.	More accurate information will be maintained on the Wardens and Local Environment Teams worksheets to provide this information in future.
3	Once the extent of fly-tipping has been established, a cost-benefit analysis should take place to consider whether the Council's charging structure remains appropriate.	This will be reviewed following outcome of actions 1 and 2 above in advance of the February 2023 budget preparation.