

**REPORT TO: ENVIRONMENTAL SERVICES AND SUSTAINABILITY COMMITTEE -
21 NOVEMBER 2005**

**REPORT ON: LITTERING/FLY TIPPING FIXED PENALTY NOTICES: ENVIRONMENTAL
PROTECTION ACT 1990 and the ANTISOCIAL BEHAVIOUR ETC
(SCOTLAND) ACT 2004**

**REPORT BY: HEAD OF WASTE MANAGEMENT and HEAD OF ENVIRONMENTAL
HEALTH AND TRADING STANDARDS**

REPORT NO: 709-2005

1.0 PURPOSE

- 1.1 To inform Committee of the terms of this new legislation.
- 1.2 To seek authority to issue fixed penalty notices under sections 33A and 88 of the Environmental Protection Act 1990, and waste presentation notices under section 46 and 47 of the same Act.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that Committee amend the "Scheme of Administration - Delegation of Powers", to delegate authority to the Heads of Waste Management and Environmental Health and Trading Standards, and appropriate officers nominated by either, to issue notices under sections 33A, 46, 47 and 88 of the Environmental Protection Act 1990.

3.0 FINANCIAL IMPLICATIONS

- 3.1 There are no financial implications arising from this report.

4.0 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 Health is protected by creating a safe, clean, and pleasant local environment.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 None.

6.0 REPORT

- 6.1 Two Waste Enforcement Officers were appointed by the Waste Management Department under 12 month contracts, using Quality of Life Funding. Their duties include patrolling areas of the City where littering occurs, investigating cases of poor trade waste presentation, and investigating incidents of flytipping.
- 6.2 Section 88 of the Environmental Protection Act 1990 relates to littering. Officers will patrol areas of the city where littering problems exist and will issue on the spot Fixed Penalty Notices for the offence of dropping litter. Although the Officers will work autonomously, joint patrols will also be undertaken with Police Officers to tackle littering problems associated with the late night economy.

- 6.3 Inappropriate presentation of trade and domestic waste can also cause a nuisance with littering, and warnings will be issued to persons concerned in the first instance. If these prove ineffective, a Fixed Penalty Notice will be served under Section 88.
- 6.4 Section 33A of the Environmental Protection Act 1990 was added by the Antisocial Behaviour etc (Scotland) Act 2004, and relates to fly tipping. This section now gives power to local authorities to serve a Fixed Penalty Notice for small scale flytipping offences.
- 6.5 The level of fine for both Fixed Penalty Notices has been set at £50.00. The income derived from the fines will be treated as income for the appropriate Department.
- 6.6 The local authority has the option to report both littering and flytipping offences directly to the Procurator Fiscal for serious breaches.
- 6.7 The Environmental Wardens employed in Environmental Health and Trading Standards will also be authorised to issue fixed penalty notices.
- 6.8 It is to be hoped that these measures will ensure a reduction in the amount of litter dropped and waste left out in the street, or on open spaces throughout the city, which will lead to a significant improvement in cleanliness.

7.0 CONSULTATION

The Chief Executive
Depute Chief Executive (Finance)
Depute Chief Executive (Support Services)

8.0 BACKGROUND PAPERS

- 8.1 None.

Jim Laing
Head of Waste Management

17 November 2005

Albert Oswald
Head of Environmental Health & Trading Standards

17 November 2005