



BASSETLAW

DISTRICT COUNCIL
NORTH NOTTINGHAMSHIRE

PARISH COUNCILS LIAISON GROUP

AGENDA

Meeting to be held in
The Assembly Room,
Worksop Town Hall,

on

Wednesday, 10th October 2012

at

7.00 p.m.

(Please note time and venue)

(Please turn off mobile telephones during meetings.

**In case of emergency, Members/officers can be contacted on the Council's mobile
telephone: 07702 670209)**

Bassetlaw—Serving North Nottinghamshire

District Council Offices, Potter Street, Worksop, Notts. S80 2AH.

PARISH COUNCILS LIAISON GROUP

Membership 2012/13

Councillors H. M. Brand, D. Challinor, S. Fielding, G. Freeman, M. T. Gray,
F. Hart, T. Rafferty, D. Pidwell and Mrs. K. Sutton

Substitute Members: Any Member

Quorum: 3 Members

Lead Officer for this Meeting

Mr. S. B. Brown - Ext. 3767

Administrator for this Meeting

Mrs. J. A. Hamilton - Ext. 3146

PARISH COUNCILS LIAISON GROUP

Wednesday, 10th October 2012

AGENDA

1. SUSPENSION OF COUNCIL PROCEDURE RULES FOR 15 MINUTES TO ALLOW QUESTIONS
2. APOLOGIES FOR ABSENCE
3. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS
(Members' and Officers' attention is drawn to the attached notes and form)
 - (a) Members
 - (b) Officers
4. MINUTES OF MEETING HELD ON 11TH JULY 2012 * (pages 7-13)
5. MINUTES FOR ACTION AND IMPLEMENTATION * (page 15)
6. OUTSTANDING MINUTES LIST * (page 17)

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

7. ITEMS SUBMITTED BY BASSETLAW DISTRICT COUNCIL *
 - (a) Community Right to Challenge/Community Right to Bid – *verbal report*
 - (b) Council Tax Support Scheme – *verbal report*
 - (c) Environmental Crime Enforcement Plan (pages 19-44)
 - (d) Anti-Poverty Strategy (pages 45-48)
 - (e) Food Banks – *verbal report*
 - (f) Rural Conference (pages 49-50)
8. ITEMS FROM PARISH COUNCILS

None

Exempt Information Items

The press and public are likely to be excluded from the meeting during the consideration of the following items in accordance with Section 100A(4) of the Local Government Act 1972.

SECTION B - ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None

Other Decisions

None

9. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS TO BE URGENT

* Report attached

NOTES:

1. The papers enclosed with this Agenda are available in large print if required.
 2. Copies can be requested by contacting us on 01909-533146 or by e-mail julie.hamilton@bassetlaw.gov.uk
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DECLARATION OF INTERESTS

HOW TO USE THIS FORM

There are now only two types of Declaration of Interest:

Disclosable Pecuniary Interests)	Details can be found in the Councillors Code of Conduct which is contained in the Council's Constitution (a summary is printed below)
)	
)	
Non Pecuniary Interests)	

Upon receipt of the attached form you will need to enter the name and date of the Committee and your own name. By looking at the Agenda you will no doubt know immediately which Agenda Items will require you to make a Declaration of Interest.

Fill in the Agenda Item number in the first column of the form.

Enter the subject matter and any explanations you may wish to add in the second column.

In the third column you will need to enter **either** if you are declaring a disclosable pecuniary interest, **or** a non pecuniary interest.

The form must then be signed and dated. Please remember that if during the actual meeting you realise that you need to declare an interest on an additional Agenda Item number please simply amend the form during the meeting.

The form must be handed into the Committee Administrator at the end of the meeting.

NB. The following is a summary prepared to assist Members in deciding at the actual meetings their position on INTERESTS it is not a substitute for studying the full explanation regarding INTERESTS, which is contained in the Council's Constitution and the Code of Conduct for Councillors, which is legally binding.

Members and Officers are welcome to seek, PREFERABLY WELL IN ADVANCE of a meeting advice from the Council's Monitoring Officer on INTERESTS.

Disclosable Pecuniary Interests

May relate to employment, office, trade, profession or vocation carried on for profit or gain
May relate to sponsorship
May relate to contracts
May relate to interests in land
May relate to licences to occupy land
May relate to corporate tenancies
May relate to securities

Action to be Taken

Must disclose to the meeting
- existence of the interest
- the nature of the interest
- withdraw from the room
- not seek improperly to influence a decision on the matter

Non Pecuniary Interests

May relate to any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council
May relate to any person from whom you have received a gift or hospitality with an estimated value of at least £25
A Member may also have a non pecuniary interest where a decision in relation to that business might reasonably be regarded as affecting wellbeing or the wellbeing of other council tax payers, or ratepayers or inhabitants in the electoral division or ward, as the case may be, affected by the decision.

Action to be Taken

Must disclose to the meeting
- existence of the interest
- the nature of the interest
- not seek improperly to influence a decision on the matter.

(Note – there are special provisions relating to “Sensitive Interests” which may exclude the above provisions in certain circumstances.)

PARISH COUNCILS LIAISON GROUP

Minutes of the meeting held on Wednesday, 11th July 2012 at Worksop Town Hall

Present:

Councillors: H M Brand, D Challinor, G Freeman, M T Gray, F Hart, D R Pressley, T Rafferty, D Pidwell and Mrs K Sutton.

Parish Council Representatives: G Brown, H Burton, B Cooper, J Evans, D Langmead, H Holdaway, G Perry, J Salmon and M Stokes

Officers in attendance: S Brown, A Burton, L Dore, K Tarburton, N Taylor, R Theakstone.

Also in attendance: Councillor S A Greaves - Leader of the Council

1. NOMINATIONS FOR ELECTION OF CHAIRMAN

RESOLVED that Councillor F Hart be elected Chairman of the Parish Councils Liaison Group for the ensuing year.

2. NOMINATIONS FOR APPOINTMENT OF VICE-CHAIRMAN

RESOLVED that Councillor H Brand be appointed Vice-Chairman of the Parish Councils Liaison Group for the ensuing year.

(The Chairman welcomed all to the meeting and read out the Fire Alarm/Evacuation Procedure.)

3. SUSPENSION OF COUNCIL PROCEDURE RULES FOR 15 MINUTES TO ALLOW QUESTIONS

There were no questions.

4. APOLOGIES

Apologies for absence were received from Councillor S Fielding and Parish Councillor C Fraser.

5. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

(a) **Members**

There were no declarations of interest by Members.

(b) **Officers**

There were no declarations of interest by officers.

6. MINUTES OF THE MEETING HELD ON 25TH APRIL 2012

In response to a query regarding Minute No. 37(a) Improving Communications between Bassetlaw District Council and Town/Parish Councils, the Senior Manager Support Services advised the Leader was to cover this topic in his report later on the agenda.

In response to queries regarding 36(a) Dog Warden Service, i.e. whether the administrative service had been set up for the issuing of fixed penalty notices and whether the training on enforcement was ready to roll out to parish councils, the Senior Manager Support Services advised he would refer to Environmental Health for clarification and forward a response to everyone.

RESOLVED that:

1. The Minutes of the meeting held on 25th April 2012 be approved.
2. A response regarding the Dog Warden Service and the issue of fixed penalty notices and training enforcement be forwarded to members of the Parish Council Liaison Group.

7. MINUTES FOR ACTION.

With reference to 36(b) Localism Act, the Senior Manager Support Services commented on an information sheet circulated at the meeting from the Corporate Development and Policy Manager who could be contacted for any additional information. A limited number of copies of the Council's Asset Management Plan were also available after the meeting for anyone interested. With reference to Council owned land matters, enquiries should be made directly to the Council's Property Manager.

With reference to the Register of Interests and Code of Conduct, a question was asked as to how the Council would be dealing with any challenges to information registered. The Monitoring Officer advised that this issue is being looked at and it is planned that a report on how the Council is going to address this will be presented to Cabinet in September. Further clarification and information will be made available over the next few weeks.

RESOLVED that the Minutes for Action be received.

8. OUTSTANDING MINUTES LIST

RESOLVED that the Outstanding Minutes List be received.

SECTION A - ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

9. ITEMS SUBMITTED BY BASSETLAW DISTRICT COUNCIL

(a) The Future Agenda

The Leader of the Council thanked the Chairman and Group for the opportunity to speak at the meeting to outline a few areas on his 'rural agenda radar' and to answer any questions.

He commented that last year, the Council launched a new Corporate Plan which showed a commitment to hosting a rural conference in the future; this will be a positive and different way to engage with parishes and the rural community.

He had considered it appropriate to have help in Cabinet for issues on the rural agenda, to influence policy for example, and Councillor Brand has been appointed to this role. For issues that are important to parishes, e.g. communications, the Council will take on a more proactive role through its Communications Manager for two-way interaction.

With reference to 'Community Right to Challenge', there is more work to be done and a draft report is being prepared for presentation to Cabinet in September.

He acknowledged that with reference to funding, the Council, parish and town councils are all under pressure. For the Council, which has to make a saving of £1.3-4m, the pressure is considerable. Work is underway in the background in preparation for the budget setting process but there are other issues, such as the changes to Council Tax Benefits, and for all councils there will be the difficulty of maintaining the level of services with scarce resources.

He declared a desire to start a dialogue about the future including concurrent grants which is a concern to some and considered more positively by others. For the Council to make no changes would be a non-sustainable position. No decisions have yet been made but there has to be an adult discussion on what the future proposals for the parish and town councils are; some may have the capacity to raise funds for providing some services. The process needs to start today for a long term sustainable solution as continuing as at present is not the answer.

Concerns were raised on behalf of NALC regarding concurrent grants, CCTV in the parishes and broadband availability. A request was made for a special committee/working group to be established to discuss and progress problems and issues.

The Leader advised that he was aware of the problems with broadband and that in his opinion, County and national initiatives were flawed; the Council is progressing its own programme to move forward. He was not aware of any interest from the residents of Worksop and Retford to be 'parished'; if there was a campaign and this was what the residents wished, then the Council would respond accordingly. With reference to CCTV, the Council is making a move in the right direction having recently undertaken a procurement process with partners to purchase wireless cameras; without the extra cost of hardwiring there will be the opportunity to move forward to roll this out to other areas. Regarding a special committee, he could see the benefit for a forum at which issues specifically affecting rural areas could be discussed; the Senior Manager Support Services could establish a working group in due course if there was merit in doing so.

A parish representative stated he was encouraged by the comments from the Leader and welcomed the role of Councillor Brand in representing rural aspects of the District at Cabinet but considered the Council needed a better way of communicating information. With reference to the 'Right to Challenge', the Council was behind the progress made by the County Council. Parish councils were looking for fair funding where they would be providing services on behalf of, or instead of, the District Council; they considered those living in Worksop and Retford received many services free of charge. The creation of a working group had been discussed earlier in the year and the response had been to wait until after the elections in May. Nothing had yet been progressed.

Councillor Brand assured the Group that in her role advising Cabinet, she would be using her existing network of informal reference groups (including NALC, RCAN, etc.) and parish councils in her Ward to source information. The agreement to set up a working group had been confirmed that morning and organisations would be contacted during the following week.

The Leader reiterated his intention for there to be proper two way communication between the District and parish/town councils in the future to move the rural agenda forward. He did not, however, consider that the residents of Worksop and Retford receive free services but recognised that the parish councils have the role of providing some services and that funding is tight. He acknowledged that he did not have all the answers but hoped that decisions made at Cabinet could be made through engagement and input so that parish councils and the District Council moved forward together in a sustainable way.

The Cabinet Member for Community Prosperity (Planning) commented that additional meetings had been held as part of the Local Development Framework consultation to engage all parts of Bassetlaw. With reference to CCTV, parish councils should contact the Council's Community Safety Team if they consider the mobile system would be of benefit to their area.

The Director of Corporate Services, (also the Monitoring Officer), advised she has responsibility for consultation and engagement, including the Communications Unit, within her service. The Council has a statutory duty to consult and this is undertaken by the team and issues on which to engage are reviewed on a monthly basis. Officers scan the horizon for emerging policy on which to proactively alert Cabinet Members but with fewer resources than the County Council has. Consultation is often part of Cabinet decision making and a decision can be challenged if no consultation has taken place but should have. There is still much to learn regarding the Localism Act and the Council will undertake to get it right.

Another parish council representative expressed concern regarding the decision made by the Council to no longer distribute paper copies of information on planning matters. Many people did not have access to the internet and therefore could not access relevant planning applications.

The Leader advised that a trial was being undertaken to use new technology and reduce the amount of printed paper for meetings etc. No decision had been made for the Council to be completely paperless. A degree of balance was called for which would still enable people to engage in matters.

Another parish council representative asked if parish clerks could be alerted on planning application submissions so that they could inform parish councillors. The Leader recognised that the parish councils needed to have this information sent through and advised he would make enquiries regarding the circulation list.

A further comment was made asking that the inequality of taxation where rural areas subsidised the well off in Worksop and Retford be dealt with. The Leader again commented that he did not see any desire to parish the two towns but that he would be happy to discuss a sustainable future with everyone.

AGREED that thanks be recorded to the Leader of the Council for his attendance at the meeting.

(b) Code of Conduct

The Monitoring Officer informed the meeting that the Council had approved a new 'Code of Conduct' and 'Register of Member Interests' at the Council meeting on 28th June 2012. This had been necessary to comply with a general duty arising from the Localism Act 2011 which abolished the former Standards Regime and is consistent with the seven 'Nolan Principles' and the development of arrangements for the consideration of complaints against elected Members.

Members' interests should be notified for inclusion in the Register within twenty-eight days of being elected and any change of interest amended within twenty-eight days of the change being

made. The Register also applies to parish councillors and forms have been sent out to parish councillors and parish council clerks for distribution, completion and return to the Council's Legal department. A composite Register of Members Interests must be published on the Council's website although parish/town councils can provide their own version if they operate a website of their own.

Parish/town councils have choices in relation to adopting their own Code of Conduct and do not have to adopt the one used by their local authority or the one produced by NALC. However, the Council is not duty bound to consider any complaints against parish/town councillors if the Code adopted is not consistent with those of the Council and NALC as complaints may be difficult to deal with.

There is some confusion about who is the 'Proper Officer' regarding dispensations and different thoughts are emerging in terms of whether it should be the Monitoring Officer. Larger parish/town councils may wish the parish/town clerk to deal with issues locally if so designated by their town/parish council. A letter will be sent to parish/town councils regarding procedure and in consideration of the best way of moving forward. The Council is considering creating some form of committee for consideration of complaints and to include co-opted parish councillors although they would not be voting members.

A parish representative queried the timing of 1st July 2012 as an implementation date when many parish councils would not meet again until September and was advised by the Monitoring Officer that many would be in the same situation and that a slight delay was unlikely to be challenged. All Councils had been waiting for the detail of 'disclosable pecuniary interests' and this had not been published by the Department of Communities and Local Government until 8th June 2012. With reference to failure to disclose certain pecuniary interests and potential prosecution and criminal conviction, the Monitoring Officers from all the District Councils in Nottinghamshire are to meet with the Police at the end of July to discuss matters and agree a protocol. There is insufficient guidance on a lot of issues which are raising queries, e.g. land ownership but hopefully greater clarity would emerge over the months ahead.

A parish representative also queried the political balance of a new style committee to investigate complaints and why parish councillors would be non-voting. The Monitoring Officer advised that decisions regarding political balance had not been made by the Council but had come directly from the Localism Act which also states that a co-opted member cannot vote and that an independent person should be appointed by the Council in an advisory capacity to the committee, Councillors and the Monitoring Officer on matters relating to the Code of Conduct.

AGREED that the verbal update be noted.

(c) Council Tax Base

The Head of Revenues, Benefits and Customer Services presented a verbal report to the Group advising there will be changes to the Council Tax Base as a result of legislation in the Localism Act 2011. The Council has to introduce a new local scheme to come into effect from 1st April 2013 and residents who are of working age who currently claim Council Tax Benefit will be affected. Housing Benefit will migrate to the Department of Work and Pensions as part of the Universal Credit scheme starting in October 2013 and will take four years to fully transfer.

The new scheme must award discounts to residents by reference to financial need and as the Government want to reduce welfare spend and encourage the journey from welfare to work, the local scheme will be funded by only 90% of existing demand led Council Tax Benefit. Pensioners are protected by law as part of a national scheme and their discount is therefore unaffected. In consideration of the Council's equality duties, vulnerable groups, e.g. the severely disabled, must also not be disadvantaged.

The Council Tax Base is, and will remain, at the heart of Council Tax setting: the bandings which create lower and higher bills, the 25% discount and disability band reductions shape it. Under the current system, all parishes decide what they need to raise from Council Tax to spend on their services and the Council sets the precept to return this amount. From 1st April 2013, there is a requirement, due to funding change, to show benefits as discounts in the overall Council Tax Base and it is this that may have an impact on parishes as the Tax Base may fall by the number of benefit related discount qualifiers in each parish.

In preparation for the new local scheme, the Council will base the first year, i.e. 2013/14 on the old Council Tax Benefit Scheme calculation and factor in the 10% reduction in subsidy from the Government, receiving an estimated £8.031m instead of just over £9m. It is anticipated a draft scheme with a number of suggestions will be out for consultation in August after consideration by District Council Members with the new scheme finalised by November 2012.

Parish representatives expressed concern over the implications of the change and in particular the increased costs for residents. The Director of Resources was thanked for information forwarded in bringing the issue to the attention of parish councils. NALC are aware of the proposed changes and are lobbying the Department for Communities and Local Government.

AGREED that:-

1. The verbal report be noted.
2. A summary of the information presented on Council Tax Base be forwarded to all parish councils and Parish Council Liaison Group District Council Members.

(d) Good Neighbour Campaign

The Senior Manager Support Services presented a report which provided information about the 'Good Neighbour' campaign being launched across Nottinghamshire which encourages people to look out for their elderly and disabled neighbours. It aims to reduce the number of people who have falls, accidents or become a victim of abuse or crime.

Parish councils were asked to circulate information, including the 'Good Neighbour Guide' distributed at the meeting, in their local communities.

AGREED that the report be noted.

10. ITEMS FROM PARISH COUNCILS

(a) Concurrent Grants

A parish council representative commented on a letter received from the Director of Resources which advised that concurrent grants might vanish by the end of the year and that the Council was considering levying land drainage costs on parish councils. With this and the earlier discussion regarding the potential change of funding through the changed Council Tax Base he sought reassurance that the Council would be fair to everyone wherever they live.

The Director of Resources commented that: Drainage Boards illustrate a lot of costs to do with rural areas are not being acknowledged; services are provided in rural areas but not at different rates; broadband is being looked at for rural areas but not in towns; the new bus station being progressed in Worksop will benefit rural areas.

The Leader added that he hoped discussion over the coming weeks would be fruitful and open-minded.

A parish clerk commented that he had distributed the letter to four parish councils and it had been received with discomfort, disquiet and had been seen as a real issue for their communities. Seen in isolation without explanation, the letter had created a lack of understanding. Another representative added that there had been disgust at the tone of the letter and that the strength of feeling should not be ignored; to pay for services such as grass cutting that those living in towns do not have to pay for would be a double taxation. Another representative felt that the parishes were already subsidising the towns by paying a precept for some services.

The Leader commented that he was under no illusion at the depth of feeling and recognised the difficulties in being able to provide services within budget. He did not see the issue as double taxation and acknowledged work needed to be done to ensure sustainable services. It was important to look forward not back.

The Cabinet Member for Community Prosperity (Planning) considered that the comment about double taxation was spurious and added that all parish councils needed to be part of the discussion and consultation and not just those represented at the meeting. Cabinet may not always get it right; all parish councils should be part of the discussion.

A parish representative considered that equality between the towns and parishes should start now while another commented that: the letter could have been better written; the towns should be parished so that they also pay for the same services the parishes have to pay extra for. He added that parishes were grateful for the grants received from the Council which paid for things such as insurance and maintenance of play facilities, but this same cost did not fall on the residents of Worksop and Retford who also did not have to pay extra for grass to be cut.

The Leader reiterated that he did not see a desire from the residents of Worksop and Retford to have town councils and this would not be imposed on them. He added that there was clearly a case for discussion to find the best way forward regarding future funding for services.

AGREED that the item and comments be noted.

11. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS TO BE URGENT

As there was no other business to be discussed the Chairman closed the meeting. He thanked everyone for their attendance and in particular the Leader of the Council for his contribution.

MINUTES FOR ACTION AND IMPLEMENTATION SHEET

PARISH COUNCILS LIAISON GROUP

11/07/12

FROM: Senior Democratic Services Officer TO: DR = Director of Resources
SMSS = Senior Manager Support Services

The following decisions are brought to your attention for action by the appropriate officers within your Service:

6. MINUTES OF THE MEETING HELD ON 25TH APRIL 2012

RESOLVED that:

1. The Minutes of the meeting held on 25th April 2012 be approved.
2. A response regarding the Dog Warden Service and the issue of fixed penalty notices and training enforcement be forwarded to members of the Parish Council Liaison Group.

SMSS

9. ITEMS SUBMITTED BY BASSETLAW DISTRICT COUNCIL

(c) Council Tax Base

AGREED that:

1. The verbal report be noted.
2. A summary of the information presented on Council Tax Base be forwarded to all parish councils and Parish Council Liaison Group District Council Members.

DR

PARISH COUNCILS LIAISON GROUP

Wednesday, 10th October 2012

OUTSTANDING MINUTES LIST

Members please note that the updated positions are shown in bold type following each item.

<u>Min. No.</u>	<u>Date</u>	<u>Subject</u>	<u>Decision</u>	<u>Officer Responsible</u>
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	None			
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BASSETLAW DISTRICT COUNCIL

PARISH COUNCILS LIAISON GROUP

10th October 2012

REPORT OF THE DIRECTOR OF COMMUNITY SERVICES

ENVIRONMENTAL CRIME ENFORCEMENT POLICY

Cabinet Member: Environment and Leisure
Contact: Mark Ladyman
Ext: 3160

1. Public Interest Test

The author of this report Mark Ladyman has determined that this report is not of a confidential nature.

2. Purpose of the Report

To advise the Parish Councils Liaison Group of the action agreed by Cabinet on 4th September 2012 to the development of an Environmental Crime Enforcement Policy in relation to dog fouling, littering, fly tipping and graffiti, and the undertaking of a consultation exercise on the draft policy.

3. Background and Discussion

- 3.1 The presence of litter, dog fouling, fly tipping and graffiti affects the quality of life individuals and communities throughout the district. The Council currently spends over £1.5m keeping the authorities highways footpaths free of litter and detritus. In addition a great deal of time is spent clearing up after irresponsible dog owners.
- 3.2 Failure to remove dog faeces and dropping litter are both offences to which this Council has enforcement powers. In discharging any enforcement powers it is good regulatory practice for an authority to set out its approach in an "enforcement policy". The draft approach to be detailed within such a policy is set out in appendix A and is a reflection of this good practice and it is proposed that this forms the basis of a consultation exercise with interested parties.
- 3.3 Notwithstanding the adoption of a new Environmental Crime Enforcement Policy, members may be interested in a review of the enforcement arrangements currently being put in place. To ensure there is a holistic and joined up approach to enforcement it is important that all the relevant partners who can participate in this action demonstrate a high level of 'buy-in'. Members of the Environmental Health team have recently completed re-refresh training on dog fouling/litter enforcement and there has been a re-issuing of the appropriate authorisations. In addition a representative of Harworth Town Council has also received the relevant training. Details of the increased surveillance by officers from the Environmental Health Team are detailed in appendix B. However these officers only representative a small element of a potential larger

scheme it is therefore proposed to carry out the relevant training and enforcement of other officers within the Council including members of the Environment Services Team and the Park Ranger. In addition A1 Housing has voiced their support in the initiative and will be putting forward representatives from the Estates Management Team also for training and authorisation. Ideally it would be beneficial to have more members of Parish and Town Councils to ensure a complete District wide approach is being adopted. To supplement and support this initiative a report will be tabled at a future Cabinet detailing this authority's approach to Dog Control Orders.

3.4 In order to effectively co-ordinate this approach to environmental enforcement it is proposed to make changes within the existing structure. Details of this proposal are within a further report on this agenda.

3.5 In addition to the proposed enforcement action the authority will also be initiating a comprehensive publicity and educational programme on environmental crime, focussing, in the short-term, on littering and dog fouling.

4. Implications

a) For service users

More effective enforcement action will deter people from littering and dog owners allowing their animals to foul the on public land.

b) Strategic & Policy

Meets the Corporate Plan 2012-15 priority "Create pride in our neighbourhoods which are clean, safe and accessible".

c) Financial – 13/438

Nil at this stage.

d) Legal – 259/09/12

In addition, where fixed Penalty Notices are not paid or are contested, there will be additional work to be undertaken by Legal Services.

e) Human Resources

None from this report - restructure as per Environmental Enforcement Report.

f) Community Safety, Equalities, Environmental

Increase enforcement action will assist in improving the general cleanliness of the district.

g) Whether this is a key decision, and if so the reference number.

Yes - 347

5. Options, Risks and Reasons for Recommendations

- 5.1 Members do not agree to consultation on the proposed approach in which case a clear framework for enforcement will not exist.
- 5.2 Members agree to consultation on the proposed approach which will ensure that a more focussed approach to environmental crime will be achieved.

6. Recommendations

- 6.1 That the Parish Councils Liaison Group notes the agreed action to be taken by the District Council, i.e. to undertake a consultation exercise concerning the proposed Environmental Crime Policy and report the findings of this exercise to Cabinet in due course.

Background Papers

Location

Bassetlaw District Council

**ENVIRONMENTAL CRIME ENFORCEMENT POLICY
DRAFT PROPOSALS FOR CONSULTATION**

September 2012

CONTENTS

	PAGE
1. INTRODUCTION	1
2. ENFORCEMENT OPTIONS	1
2.1 No action	1
2.2 Informal action	2
2.3 Fixed Penalty Notices	2
2.4 Statutory Notices	3
2.5 Formal/Simple Cautions	3
2.6 Prosecution	4
3. Environmental Crime Incident Tickets	5
4. Issuing Fixed Penalty Notices and other enforcement actions	5
5. Request for personal details by an Authorised Officer	5
6. Evidence	6
7. Persistent Offenders	7
8. Juveniles (person aged under 17)	8
9. Payment of Fixed Penalties	8
10. Non-payment of Fixed Penalties	8
11. Authorisation	9
12. External Partners	9
13. CORE OFFENCES	10
13.1 Pedestrian Litter	10
13.2 Litter from Vehicles	11
13.3 Abandoning a vehicle	11
13.4 Dogs	11
13.5 Graffiti	13
13.6 Fly Tipping	13
14. Duty of Care Offences	15
14.1 Industrial and Commercial Waste	15
14.2 Householders	16
15. Control of litter and refuse	17
15.1 Waste Receptacles	17
15.2 Powers to prevent littering	17
15.2.1 Street Litter outside premises	18
15.2.2 Controlling the Distribution of free literature	18
15.3 Clearing of Litter and Refuse on Private Land	19
15.4 Other appropriate powers	19

1. Introduction

This policy sets out the general principles that the Council intends to follow in relation to the enforcement and prosecution of environmental crimes.

In the first instance, the Council's preferred action is to secure compliance through education and information. Enforcement action will require authorised officers to follow set procedures and protocols in order to ensure consistency in the collection of evidence and the enforcement actions applied. These actions represent a zero tolerance to environmental crime, but will not always require prosecution action.

Publicity for the policies and procedures in place will be ongoing with appropriate leaflets, posters, articles in the local media, web pages and school education. Enforcement action should only be taken if there is evidence of an offence having taken place and in those circumstances where individuals or businesses commit serious breaches, flout the law, where it would otherwise have an adverse effect upon community confidence, where the offence although not serious in itself is widespread in the area, or where the offender refuses to work with us to seek compliance

The Council has the power to take appropriate enforcement action against persons that commit a variety of environmental crimes. The following are considered to be the core offences upon which action will be taken, although not exclusive:

- Littering (including littering from vehicles)
- Abandoned vehicles
- Dog Fouling
- Fly tipping
- Graffiti/Flyposting
- Duty of care offences
- Litter control offences

This list is not exhaustive and represents most of the most common offences and may be added to as legislation is updated or amended. In addition there are additional powers which can assist the Council control accumulations of litter and refuse and will seek to take the appropriate action for these offences using a wide range of enforcement actions as prescribed by legislation.

2. Enforcement Options

2.1 No Action

In some cases no action will be taken in cases where there is little or no evidence or where the offender has fully co-operated. In all cases the offender will be advised in writing of the decision.

2.2 Informal Action

Informal action includes verbal or written warnings and requests for remedial action. It may involve offering advice, information and assistance to ensure compliance with legislation.

Informal action will be taken when one or more of the following apply:

- The act or omission is not serious enough to warrant formal action
- The consequence of non-compliance will not pose a significant risk to public health
- Confidence in the individual/business management is high
- Past history indicates that informal action is likely to achieve compliance
- Other mitigating circumstances apply

When an informal approach is used, any written warning or notice of remedial action should contain the following information: date, time and location of the alleged offence, personal details of the alleged offender, the nature of the offence and relevant legislation. It should also contain all information to understand what work is required and the reasons. The warning should be signed and dated upon issuing by an authorised officer.

2.3 Fixed Penalty Notices

A Fixed Penalty Notice (FPN) will be issued to persons who have committed a relevant offence; full payment of the FPN will discharge the original offence for which the individual cannot then be prosecuted, provided that full payment is received within the specified time period.

FPNs provide enforcement agencies with an effective and visible way of responding to low level environmental crime. Experience has shown that the public generally welcomes the use of FPNs provided they are issued sensibly, enforced even-handedly and are seen as a response to genuine problem.

FPNs will not normally be issued to juveniles (see Section 8) or to persons who are registered blind.

It is essential for the issuing of a Fixed Penalty Notice that the authorised officer collects adequate evidence to support any legal proceedings if the notice is returned unpaid.

The Council's standard approach will be to set the level of FPN's payable within the range set by statute. The level of each type of fixed penalty notice will be set by Cabinet annually as part of the fees and charges review.

The Fixed Penalty Notice must contain the following information; date, time and location of the offence, personal details of the offender, the nature of the offence and relevant legislation, and be signed and dated upon issuing by an authorised officer.

The notice will clearly state that by opting to pay the fixed penalty the Council will take no legal action for the prescribed offence, providing that the payment is received within 14 days (or within 10 days where a reduced penalty is permitted) of the issuing of the notice.

2.4 Statutory Notices

The Council has the option for some offences to issue statutory notices in lieu of prosecution, by serving notice and permitting works to be done in default thus enabling costs to be recovered by civil means.

Statutory notices will be issued as statute allows where one or more of the following apply:

- There is a significant contravention of the legislation
- The consequence of non-compliance could be potentially serious to public health
- There is a history of non-compliance with informal action
- There is evidence giving rise to lack of confidence in the individual or business to respond to an informal approach
- Although it is intended to prosecute, effective action also needs to be taken as quickly as possible to remedy conditions that are serious and deteriorating

Statutory notices will normally be served for the more serious issues or repeated contraventions and may also be issued in conjunction with prosecutions and FPNs.

Realistic time limits will be given for the compliance with statutory notices, where possible agreed with the individual/proprietor as attainable and appropriate.

Failure to comply with a statutory notice will normally result in the institution of legal proceedings. Officers must, therefore, have sufficient evidence available to justify their issue or work in default.

2.5 Formal/Simple Cautions

The Council may consider offering a formal or simple caution as an alternative to prosecution. The purpose of a formal caution is to;

- Deal quickly and simply with less serious offences
- Divert less serious offences away from the courts
- Reduce the chance of repeat offences

As with all types of enforcement action, the alleged offender will be required to supply the officer with their personal details. These details cannot be used to

issue any other type of enforcement action for that offence; however they can be used in conjunction with future enforcement action.

The decision whether to offer a formal caution or higher level enforcement action will relate to the nature of the offence and the attitude of the alleged offender.

The following conditions must be fulfilled before a caution is administered:

- There must be evidence of the alleged offenders guilt sufficient to give realistic prospect of conviction
- The alleged offender must admit the offence
- The alleged offender must understand the significance of a formal caution and give informed consent to be cautioned

If there is insufficient evidence to consider prosecution then a formal caution will not be considered.

There is no legal obligation for a person to accept the offer of a formal caution and no pressure should be applied to the person to accept one, however full information will be disclosed to the offender as to the consequences of the refusal. If an offender refuses to accept formal caution, a prosecution will normally be pursued.

Formal cautions must contain the following information; date, time and location of the alleged offence, personal details of the alleged offender, the nature of the offence and relevant legislation. It must be signed and dated by an authorised officer and must be issued using a formal notice which also includes the signature of the offender agreeing to accept a caution.

The Director of Community Services or nominated deputy is authorised to issue formal cautions.

2.6 Prosecution

In certain cases prosecution through the courts may be the most appropriate course of action, or where other enforcement actions have had no effect.

Prosecution will likely follow when:

- A Fixed Penalty Notice is issued to an alleged offender is returned unpaid after the 14 day payment period
- An offence is of a size or nature where other enforcement actions are considered to be insufficient.
- Previous actions have failed and there is no option for other enforcement action
- The nature of the offence is deemed to be in the interest of the public
- The offence has a serious or significant impact on the environment

The Director of Community Services or nominated deputy is authorised to instigate legal proceedings after consideration by the Council's legal representatives.

3. Environmental Crime Incident Tickets

Patrolling officers will be issued with environmental crime incident tickets to issue to offenders to inform them of an action being taken by the Council.

The tickets will be two page carbonated paper and allow the officer to note the offender's details, time, date and location and brief details of the offence committed and the action being taken. These tickets will not in themselves be a Fixed Penalty or other notice, but will be used to record and check information and allow the offender to understand the actions to be taken.

A copy of the incident ticket will be given to the offender and the top copy returned to the office with witness statement. The original ticket will be retained as evidence.

4. Issuing Fixed Penalty Notices and other enforcement actions

Enforcement action will be retrospective to the alleged offence being committed.

Following the collection and verification of identity details the Council's standard procedure will be to issue Fixed Penalty Notices Statutory Notices and Formal Cautions through the post. Delivery will be by recorded delivery or hand delivered.

Informal actions, advice and records of visits and/or details of remedial actions will be placed for posting in accordance with existing policies or a record made of visit on site and handed to the individual/business owner.

It is therefore essential that the evidence and information collected by the authorised officer must be of an adequate standard to support any resultant legal action.

5. Request for personal details by an Authorised Officer

Authorised officers have the power to require the name and address of a person who they believe has committed an offence. These personal details can then be used to pursue enforcement action against the alleged offender.

To avoid serving enforcement action using false details, the authorised officer will use all reasonable methods to confirm the details supplied by an alleged offender.

Failing to supply personal details, or giving a false name and address to an authorised officer is an offence, and carries level 3 fine (currently £1000) upon

conviction. If a person fails to provide an authorised officer with personal details, the officer will take all reasonable steps to obtain information on that person.

Patrolling officers may ask for verification of ID in the form of driving licence, bank cards etc on site.

Confirmation of identity can also be through the Electoral Register where personal details can be checked against the electoral roll (but this will not include juveniles), company records and school visits (juveniles). Where appropriate, assistance from partners may be required via use of CCTV, PNC or DVLA checks. Upon confirmation of the alleged offender's personal details, the appropriate enforcement action can be taken.

Authorised officers, for the purposes of environmental crimes detailed will be all nominated staff of the Council.

6. Evidence

Evidence is the key to the enforcement procedure. The recording and storage of this evidence must be carried out in a concise and consistent manner and in accordance with the Police and Criminal Evidence Act to ensure its admissibility in Court. Evidence collected by authorised officers will come in various forms, from various sources and, dependant on its quality, could be used in a variety of enforcement actions.

A locked evidence cupboard will be established with nominated key holders. All evidence will be clearly logged and recorded and held in accordance with provisions of the Data Protection Act 1998.

Evidence that is obtained by an authorised officer 'in the field' will be recorded contemporaneously in ink in a PACE notebook. All entries must be clear and precise.

Evidence obtained by CCTV will be in accordance with existing policy and procedure.

Evidence may also be in the form of:

- **Addressed documents**

Evidence gathered in relation to an offence, can come in the form of an addressed document, which may relate to the person believed to have committed the offence (eg when household waste is found to be fly tipped, an authorised officer will search the waste for any documentation which may relate to the person responsible).

Witness statement from an authorised officer

When enforcement action is taken against an alleged offender, where an authorised officer has witnessed the offence occurring, that officer will have to produce a witness statement.

- Witness statement from other persons

Evidence received from members of the public can be used to issue formal cautions, Fixed Penalty Notices or other enforcement action. In order for the evidence to be of value the witness must be willing to attend court to give evidence, if that becomes necessary. Any statement made by a witness must be signed and dated by the witness and witnessed by the authorised officer at the time of taking of the statement. Statements will be recorded on forms prepared to comply with evidential procedures.

- Interview of alleged offenders

The Police and Criminal Evidence (PACE) Codes of Practice require any person interviewed regarding his involvement or suspected involvement in a criminal offence must be under caution, otherwise the evidence will be inadmissible in court. This caution must be carried out before any questions are put to the person suspected of the offence in regard to the offence.

PACE interviews will only be undertaken by trained persons and included in staff training plans.

No juvenile (a person aged under 17) or mentally impaired person (as defined by Section 1A of the Mental Health Act 1983) should be interviewed without an appropriate adult being present. This could include parent, social worker or carer.

- Interviewing by letter

In very limited circumstances and only as a last resort it may be necessary to try to interview the suspect by way of correspondence. In this way it will be possible to write to the suspect under caution asking them relevant questions and giving them a time by which to reply.

7. Persistent Offenders

To ensure that the enforcement procedure is fair and consistent, persistent offenders will be dealt with as follows;

Where an informal action has been recorded on a previous occasion, and a further offence is committed on a separate occasion, no further warnings will be issued.

Where a formal caution has been issued on a previous occasion, and a further offence is committed on a separate occasion, no further cautions will be issued.

On acceptance of the caution, the alleged offender understands that any future infringement of the law will result in further enforcement action. In

these cases the next likely course of action would be to institute legal proceedings.

A person may be issued with up to two Fixed Penalty Notices in total. If found to have infringed the law on a third separate occasion no further penalty notices will be served upon that person and court proceedings will be instigated.

8. Juveniles (person aged under 17)

When a juvenile is alleged to have committed an offence the name, address, age and date of birth of the suspected offender should be obtained, together with the name and address of his or her parent or legal guardian. Once the age of the offender has been ascertained, the correct course of action can then be followed.

For offenders between 10 and 15 years old, DEFRA guidelines state that a fixed penalty should **not** normally be issued in the first instance.

A juvenile will be issued with a written warning with a copy sent to their legal guardians.

Legally fixed penalty notice can be issued to anyone over the age of 10 and authorities are recommended to adopt special procedures for issuing notices to young offenders. This ensures that they are acting in accordance with their duty under the Children Act 2004; which requires that authorities have regard to the need to safeguard and uphold the welfare of children and to seek the introduction of a non-financial, none criminal, restorative justice scheme as an alternative to FPN payment.

For offenders aged 16 or 17 years old, a Fixed Penalty Notice can be issued using the same procedure as for adults.

9. Payment of Fixed Penalties

When a Fixed Penalty Notice has been issued, the alleged offender has 14 days within which to make the full payment amount, or pay the discounted amount within 10 days.

Payment of the fixed penalty notice will normally be made in one of three ways:

- by debit or credit card over the telephone to the Council Offices
- by cheque through the post
via the Post Office or PayPoint Agent

Payment of FPN by instalments will **not** normally be accepted

10. Non-payment of Fixed Penalties

When, after five working days after the 14 day period a Fixed Penalty Notice has not been paid, the alleged offender will be sent a reminder letter. This letter will state the terms of the penalty payment, and the fact that the deadline has now passed.

If a Fixed Penalty Notice remains unpaid for a period of 14 days after the payment deadline has passed, a file will be put together to enable legal proceedings be instigated. All unpaid penalties will be followed up by legal proceedings.

11. Authorisation

The statutes enforced by the Council require that the enforcement officers are duly authorised.

Authorised officers will be either:

- i) an employee of the Council who is authorised in writing by the Council for the purpose of giving notices under the relevant legislation;
- ii) any person who, in pursuance of arrangements made with the Council, has the function of giving such notices and is authorised in writing by the Council to perform that function; or
- iii) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices.

It is essential that officers are correctly authorised, so as not to be challenged in court.

Authorised officers will be trained on how to gather evidence that will be in accordance with judicial requirements and on conflict avoidance techniques when dealing with alleged offenders.

The authorisation will identify the officer by name and position, will describe the legislation that the officer is authorised to enforce and will be signed by a delegated senior officer on behalf of the Council.

12. External Partners

The Council will seek support from Nottinghamshire Police, Bassetlaw Community Safety Partnership, Environment Agency, Keep Britain Tidy, DEFRA, Nottinghamshire County Council, A1 Housing, other registered social landlords, local businesses for support in the deliver of this policy.

13. Core Offences

13.1 Pedestrian Litter

There is no formal definition of litter, however Section 87 of the Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act (CNEA 2005)) defines the offence of littering as the throwing down, dropping or depositing of litter on any land, including land covered by water, and leaving it. The land must be within the area of a principal litter authority and 'open to the air' (if the land is covered, but open to the air on at least one side, the offence only applies if the public has access to that land). Littering is an offence in public places as well as on private land unless the owner of that land has given permission for the dropping of the litter or a legal authorisation exists to do so. A litter offence can be prosecuted through a magistrates' court and carries with it a maximum fine of level four on the standard scale (currently £2,500).

The CNEA 2005 also makes it clear that litter includes smoking-related litter and discarded chewing gum.

Paragraph 2.1.5 of the Enforcement Strategy refers to the problem of littering. Enforcement action will therefore be taken on the first occasion an offence is witnessed being committed.

In every case where the action of littering has been witnessed or there is other firm evidence, the presumption will be to issue the FPN in lieu of prosecution.

The policy applies to dropped/thrown litter in ANY open place in Bassetlaw.

Offences observed on overt CCTV or will be pursued where identity can be obtained.

On a case by case basis, authorised officers may, in accordance with the principles of the Enforcement Strategy choose to consider the placing of bags of rubbish (where evidence can be found) as littering.

In lieu of prosecution for a litter offence the alleged offender will be given the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty to the maximum allowed by statute (currently £80) with a reduction to £55 if paid within 10 days.

13.2 Litter from Vehicles

Littering from vehicles and the subsequent problems on verges, highways and danger to animals is of major concern to the public.

There is no offence of littering from vehicles, only the offence of littering.

Officers witnessing litter thrown from vehicles must first establish the identity of the offender before issuing a FPN or taking other enforcement action.

Generally, offences may be seen by officers on overt patrol or in vehicles whilst following other road users during the course of their normal duties. The Council will also accept witness statements from members of the public or officers for investigation. Offences observed on overt CCTV in accordance with existing policies.

The Council is registered with the DVLA for access to registered vehicle details and will apply to all company and leased vehicles for investigatory purposes where an offence is believed to have taken place.

13.3 Abandoning a vehicle

Under the Refuse Disposal (Amenity) Act 1978, a person commits an offence if they, without lawful authority, abandon on any land in the open air, or on any land forming part of a highway, a motor vehicle or anything that has formed part of a motor vehicle.

The CNEA 2005 allows local authorities to issue Fixed Penalty Notices to persons alleged to have committed such an offence.

There is no legal definition of an abandoned vehicle. Council authorised officers will check the following when forming decisions on abandonment using guidance issued by the Dept of Environment, Food and Rural Affairs (DEFRA)

- Valid road tax
- If there is a registered owner
- The roadworthiness of the vehicle
- Parked in a place likely to be a danger to other road users (Police immediate removal power)

Notice of immediate, seven or 14 day removal will be issued after due consideration by authorised officers as to the location and state of a vehicle.

Vehicles can be removed immediately, but some must be stored for a certain length of time and notice served before disposal.

For vehicles that the local authority considers to have some value, the written notice period to the last registered keeper before a vehicle can be destroyed is seven days. The Council have the appropriate authority from the DVLA for this purpose.

Vehicles that the local authority considers to have no value can be destroyed immediately if it is thought that they have been abandoned. A local authority no longer has to wait for the expiry of a valid license and may destroy immediately any vehicle that it regards as only fit for destruction. In cases where it is not evident that the vehicle has been abandoned, the vehicle can then be disposed of if the owner cannot be traced or fails to respond to a Notice.

Vehicles with some value that have been abandoned on the highway may be removed immediately by the local authority who then send a 21 day notice to the address of the last registered keeper (a subsequent notice of 14 days may be issued to enable the local authority to make further enquiries).

The Council reserves the right to recover costs of removal, storage and disposal from the person responsible for abandoning the vehicle.

Normally authorised officers will only be able to arrange for the removal of a vehicle from a highway or public land.

The Council may also issue a 15 day notice to the owner or occupier of the intention to remove abandoned vehicles on private land. The landowner or the occupier must agree with this removal. The Council reserve the right to recharge the cost of doing so to the occupier or registered keeper (if one has been identified). A notice is not required to be issued where a vehicle is abandoned on a road (within the meaning of the Road Traffic Regulation Act 1984) – that is, any length of highway or of any other road to which the public has access. In this case the vehicle can be removed immediately.

If found guilty of abandoning a vehicle on a highway or on land in the open air, a person can be fined up to £2,500 or a term of not exceeding three months imprisonment, or both.

In lieu of prosecution for an abandoned vehicle offence, the Council will give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty of £200, reduced to £130 if paid within the first 10 days.

13.4 Dogs

Regulation for offences relating to dog fouling in Bassetlaw remains under Section 3 of the Dog Fouling of Land Act 1996.

It is an offence not to clean up after a dog on designated land. For the purpose of the 1996 Act, Bassetlaw District Council has two Orders in place, the Bassetlaw District Council (Dogs Fouling of Land) Orders 1999 and 2001. All land has been designated with the co-operation of landowners.

Witness statements can be accepted from the public to gather intelligence for dog patrols in hot spot areas and for the purposes enforcement action, offences where dog owners are witnessed with vehicles, the appropriate licensed search will be undertaken on the DVLA website to trace owners.

In lieu of prosecution for the offence of failure to clean up after a dog, the Council will give an offender the opportunity to discharge any liability for conviction for the offence by the payment of a fixed penalty of £50 (there is no option for reduction).

There is not an option to offer a fixed penalty payment in lieu of prosecution for these offences and other enforcement actions will be pursued in accordance with the principles of the Enforcement Strategy. In the first instance informal action will be taken.

Additional powers to further specify land where dogs are prohibited, require leads or legislate for the maximum amount of dogs under the control of one person have been made available under the CNEA 2005. There is a strict procedure to be followed in order to make a dog control order and approval for orders will require prior approval of all land owners and the Council. Consideration as to the requirement for this and resource implication for implementation of dog control orders will be reviewed dependent on requirement.

13.5 Graffiti

The tackling of graffiti will continue to be monitored using ongoing processes in partnership with all Council services, Police and other partners. Offensive or racial graffiti will be removed from Council assets within 24 hours where practicable.

In lieu of prosecution for a fly posting or graffiti offence, the Council reserve the right with witness statement to give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty to the maximum allowed by statute (currently £80), reduced to £55 if paid within the first 10 days.

13.6 Fly Tipping

There is no specific definition of fly-tipping other than that set out in section 33 of the Environmental Protection Act 1990, which says it is an offence in general terms, to treat, keep or dispose of controlled waste other than in accordance with an environmental permit or in a manner likely to cause pollution of the environment or harm to human health.

The offence may only be committed in relation to controlled waste, although nearly all wastes now qualify as controlled waste (household, commercial, industrial or clinical).

Illegal dumps of waste can vary in scale and the type of waste involved.

Tipping a mattress, electrical items or a bin bag full of rubbish in the street causes a local nuisance, and tipping household items and small-scale building or garden waste in open spaces reduces their amenity value to the community.

The powers to deal with fly tipping incidents are shared between local authorities and the Environment Agency. The national Fly Tipping Protocol (agreed between the Environment Agency and LGA) gives guidance on which authority should take the lead in dealing with fly tips dependant on their size, composition and location.

Fly tipping education and awareness campaigns will be included in the education programme. Evidence found in fly tipped rubbish will be used to identify the owner. The issuing of a fixed penalty notice or prosecution will be considered in accordance with this Policy, but in appropriate circumstances, a householder may be given the opportunity to avoid formal action by agreeing to remove and properly dispose of the waste.

Both the Council and the Environment Agency may serve a notice under the EPA1990 requiring the occupier of land to remove material fly tipped and/or reduce the consequences of the deposit of the fly tipped material. Occupiers of land can establish a statutory defence such as he did not knowingly permit the material to be fly tipped on his land and the CNEA 2005 removes the defence of an offender acting under his employer's instructions.

The Council or the Environment Agency can also remove fly tipped material and recover their investigation and clean up costs of doing so from convicted fly tippers.

All incidents of fly tipping will be recorded and investigated (where practicable) within three working days. In the first instance evidence will be sought by officers and retained according to procedure.

The CNEA 2005 increased the penalty for a person found guilty of a fly tipping offence to up to £50,000, or a term not exceeding five years imprisonment for both hazardous and non-hazardous waste offences.

A fixed penalty notice for fly-tipping (issued as a section 87 littering offence) will only be issued for very minor fly-tipping offences where the small quantity of waste could reasonably fall within the definition of "litter".

Larger scale fly-tipping or commercial fly-tipping will normally result in prosecution in accordance with this Policy.

Consideration will be made on a case by case basis, in accordance with available legislation, as to the appropriate action taken.

14. Duty of Care Offences

Section 34 of the Environmental Protection Act 1990 sets out the waste duty of care that applies to anyone who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste.

Section 53 of the CNEA 2005 extends the powers to investigate illegal waste disposal or duty of care offences to authorised council officers.

14.1 Industrial and Commercial Waste

It is an offence to place trade (industrial) or commercial waste into street or domestic litter bins and all businesses* must have a trade refuse collection agreement with a contractor authorised to carry waste.

** exemptions apply for a business operating from a domestic address and for some residential care homes*

Private landlords who may manage residential houses in multi occupation and whose residents are not registered for Council Tax purposes will be required to register for trade waste agreements and control accumulations of 'commercial' rubbish arising from their premises.

Businesses will receive advisory visits on a planned basis or as reports are received of waste and associated litter issues.

Businesses are legally obliged to keep **any** waste resulting from their activities safe whilst in their possession. The Council will seek to take action on the following duty of care offences:-

- **34 1 (b) Failing to take reasonable steps to prevent escape of controlled waste**

All businesses must ensure their waste is stored in appropriate containers so that it cannot fall out, blow away or escape. The waste should also be secured against unauthorised removal and secure from animals, vandals, thieves, accident or weather.

A record will be made of an advisory visit with written warning and 14 days given to rectify the issue. Failure to act on the advice of authorised officers will, on a case by case basis and in accordance with the principle of the Enforcement Strategy, result in further enforcement action.

- **34 1c Failing to take reasonable steps to ensure that a transfer of the waste is to an authorised person and accompanied by a waste transfer note**

Waste can only be passed on to an authorised person and the producer must retain a waste transfer note that sets out certain details of the waste.

Where offenders are identified, amendments to Section 34, by the CNEA 2005, make it an offence when a person has failed to carry out their duty to provide the necessary authority for transporting waste.

As part of the education process, businesses will be asked to provide the relevant waste transportation documents at the time of visit and the Council will allow that person 14 days within which to produce the documentation or provide proof that the a waste contract has been signed.

If the documentation is not produced within 14 days and in lieu of prosecution for failing to produce the necessary authorisation for transporting waste, the Council will give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty of £300, reduced to £200 if paid within the first 10 days.

A business or waste carrier found guilty of failing to provide the necessary authority for transporting waste can be fined up to £5,000 on prosecution.

14.2 Householders

Duty of care offences do not apply to householders' domestic rubbish collection and other household waste arising from the operation of a business from a domestic address when refuse is presented in accordance with Council waste and recycling policies. However duty of care does apply when disposing of excess waste over and above the normal permitted amount on domestic collections, eg the old washing machine, tv, sofa etc

Householders employing a contractor to remove waste from their property (such as garden or building waste) do, however, have a duty to take reasonable measures to ensure that their waste is passed on to an authorised person. The duty emphasises the responsibility that residents must not support illegal waste transfer and fly tipping, whether knowingly or unknowingly.

A process of education and awareness will be implemented as a preferred course of action.

Evidence found in fly tipped rubbish will be used to identify the owner. Prosecution will be considered in accordance with this Policy, but in appropriate circumstances, a householder may be given the opportunity to avoid formal action by agreeing to remove and properly dispose of the waste.

15. Control of litter and refuse

Some offences may occur that do not form part of the Core Offence list, but are still of a nature that could lead to the issuing of a Fixed Penalty Notice or a caution. The Council will seek to use these powers on a case by case basis to deal with waste and litter accumulations on private or public land or the street.

15. Waste Receptacles

Business – Under Section 47 of the EPA the Council has the power to specify the type and number of waste receptacles needed to contain waste in accordance with Section 34 (duty of care) and where they should be placed to facilitate emptying, the substances or articles which should not be placed in them as well as the precautions that should be taken where particular substances or articles are placed in them.

Advice on the type and size of receptacles will form part of the advisory visits to businesses or as intelligence is received as to problems occurring.

The Council reserve the right to issue a Waste Receptacles Notice to a person who fails to comply with these specified requirements and a person found guilty of failing to comply with a notice can be fined up to £1,000. The CNEA 2005 introduces the use of fixed penalties for failure to comply with a Waste Receptacles Notice.

In lieu of prosecution for failure to comply with a Waste Receptacles Notice, the Council reserve the right to give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty of £100, reduced to £80 if paid within the first 10 days.

15.2 Powers to prevent littering

In order to promote a proportional response and to work with local businesses, the approach of Bassetlaw District Council will be to promote the use of appropriate receptacles through the local business forums and encouragement to obtain Keep Britain Tidy Business Awards in areas where street litter problems may occur largely due to the nature of the businesses eg fast food outlets.

Where possible, businesses will be educated and visited on an ongoing basis to encourage participation in preventative schemes, provision of bins etc. This process will be encouraged in close partnership with Environmental Health to deter and prevent issues arising which may affect public health and the surrounding area including pest infestation.

On occasion, where an approach of informal agreement does not work, the Council will reserve the right to take action as required under a wide range of enforcement powers on a case by case basis.

15.2.1 Street Litter outside premises

The EPA 1990 allows the Council to tackle street litter generated through the activities on adjacent premises, by serving Street Litter Control Notices on businesses. These notices are specifically designed to help deal with food and drink packaging and other litter from 'fast food' outlets or litter from cash machines.

The CNEA 2005 extends the use of these notices to include mobile operations, such as burger vans, and introduces the use of fixed penalties for failure to comply with a notice.

The Council reserves the right to serve a notice on a business which fails to comply with informal agreement, which requires them to clear up the litter and implement measures to prevent the land from becoming defaced again. A person found guilty of failing to comply with a Street Litter Control Notice can be fined up to £2,500.

In lieu of prosecution for failing to comply with a Street Litter Control Notice, the Council will give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty of £110, reduced to £80 if paid within the first 10 days.

15.2.2 Controlling the Distribution of free literature

The CNEA 2005 gives local authorities the power to control the distribution of free literature by designating areas of their own land or highways where free literature is only permitted with their consent. These powers have yet to be adopted by the Council.

The process of street designation will require work with Nottinghamshire County Council who are the highways authority. At that time anyone distributing free material in a designated area without consent (except charities or for political purposes) is committing an offence and, if found guilty, could be fined up to £2,500.

The Council will consider complaints received about the distribution of free literature and assess whether it is appropriate to make an order to restrict the distribution of free literature. If such an order were to be made, in lieu of prosecution for a distribution of free literature offence, the Council will give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty of £80, reduced to £55 if paid within the first 10 days.

The Council will continue to advise any persons/businesses who distribute free literature in the town that excess litter caused as a result may result in the issue of a Fixed Penalty Notice (Section 2.1 Litter refers)

15.3 Clearing of Litter and Refuse on Private Land

There are a range of measures that the Council may employ to require the clearance of land and the actions required must be reviewed on merit and in accordance with the Enforcement Strategy.

Litter Clearing Notices can be considered by the Council if an informal advisory approach fails where land has become defaced by litter and refuse and this is seen as detrimental to the amenity of the area. These Notices have been introduced by the CNEA 2005 and replace the Litter Control Areas created by the EPA 1990 (Sections 92A-C including 94A).

Litter Clearing Notices are used where local authorities do not have a duty to clear litter and refuse, most commonly private land. The Council is able to specify the areas and the standard to which the land must be cleared. If the land is not cleared satisfactorily, the Council can enter the land, clear it itself and recover the costs of doing so. A person found guilty of failing to comply with a Litter Clearing Notice can be fined up to £2,500 upon conviction.

Cases will be considered on their own basis and in lieu of prosecution for failing to comply with a Litter Clearing Notice, the Council can give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty of £110, reduced to £80 if paid within the first 10 days and seek to charge the offender for the clear up.

15.4 Other appropriate powers

The Council may also seek to take action to tackle litter and refuse on private land by use of the following statutes on a case by case basis for which action will be in accordance with the Enforcement Strategy.

Section 59 Environmental Protection Act 1990

Part III (Statutory Nuisance) Environmental Protection Act 1990

Section 215 Town and Country Planning Act (in partnership with the Planning Dept)

Section 22 (3) Control of Pollution Act 1974

Section 78 Public Health Act 1936

Section 34 Public Health Act 1961

Section 6 Refuse Disposal (Amenity) Act 1978

Section 4 Prevention of Damage by Pests Act 1949

BASSETLAW DISTRICT COUNCIL

PARISH COUNCIL LIAISON GROUP

10th October 2012

REPORT OF SENIOR MANAGER SUPPORT SERVICES

ANTI POVERTY STRATEGY AND ACTION PLAN

Cabinet: Support Services
Contact: Stephen Brown
Ext: 3767

1. Public Interest Test

The author of this report, Stephen Brown, has determined that the report is not confidential.

2. Purpose of the Report

To update the Liaison Group on the development of an “Anti-Poverty” Strategy and Action Plan by the District Council.

3. Background and Discussion

3.1 The Council’s Corporate Plan for 2012-2013 indicates the following priorities:-

Ambition:

- Quality Housing and Local Environment
- Increase supply of affordable housing
- Tackle fuel poverty by making energy saving home improvements

Ambition:

- Involved Communities and Locality Working
- Develop a financial inclusion strategy
- Work with partners to combat the causes and effects of poverty

This priority has been driven by the knowledge on debt and poverty within Bassetlaw. A recent study indicates that Bassetlaw is ranked 61st in England for the biggest risk of poverty and 64th for Child Poverty out of 326 local authorities. (Source: Experian Poverty Maps of England). This statistical evidence is backed up with the knowledge about the impact on life of individuals impacted by low income levels, debt and the corresponding social consequences.

3.2 There are currently a number of separate, but interlinked initiatives/strategies being undertaken within the Council that contribute to this agenda – Fuel Poverty/ Affordable Warmth Strategy, Notts Child Poverty Strategy, Housing Strategy,

Economic Regeneration – work and skills, developing rural agenda. Significant work is taking place on the preparation for Universal Credits and changes to Council Tax.

- 3.3 Poverty is not just about money. It is about not having the access to the resources necessary to participate fully in society (“Social Exclusion”). Government policy is to reduce and reposition the role of the state, shrink and simplify the welfare system and reduce expenditure. There is a shift towards greater individual responsibility. In the area of financial exclusion there is to be less emphasis on costly face-to-face support and a move towards more self-help, telephone and internet-based forms of information, advice and guidance. This leaves the most vulnerable at still greater risk.
- 3.4 The strategy proposes a programme for tackling poverty over the next three years (in line with the Corporate Plan) and includes:
- A vision for the future;
 - A snapshot of Bassetlaw’s current position including estimated levels of poverty/deprivation in the district;
 - Information on what the Council and its partners are already doing to alleviate poverty and break the cycle of deprivation;
 - Eight broad objectives in tackling poverty in Bassetlaw;
 - Proposed actions to achieve these objectives;
 - Proposed targets and methods of monitoring progress;
 - Information on the resources that will be required to deliver the strategy;
 - Information on national and local policies and strategies that have informed the strategy.
- 3.5 Whatever description is used for this work, the Council (and its partners) must tackle these issues on a wide basis and not just in isolated, single theme agendas. The danger is that the issues can be marginalised, connections missed and resources not maximised. The strategy brings together much of the existing work to combat poverty in the district and identifies the challenges and opportunities for developing this work. Although essential to improving people’s quality of life, simply alleviating poverty won’t break the persistent cycle of deprivation and will result in only short-term improvements. Anti-poverty work needs to be linked to regeneration, housing and economic development.
- 3.6 The draft strategy was approved by Cabinet at its June meeting together with an outline of the Anti Poverty work. It was agreed that a consultation programme would be undertaken. Over 30 individual organisations, together with all Town/Parish Councils were circulated with both the draft strategy and action plan. In addition, consultation was undertaken through the Council’s website. Key partners including the CAB, Credit Union, NHS Bassetlaw Clinical Commissioning Group have endorsed the approach and priorities within the draft documents. Views were also sought on the idea of an Anti Poverty Commission. Whilst it was felt a Commission might help raise the profile for a short period of time, it was recognised that there is already partnership work taking place. There was a view that this joint work should be reviewed and enhanced..
- 3.7 The Working Group has been tasked with progressing objectives and outcomes, together with:
- Proposed actions to achieve these objectives;

- Proposed targets and methods of monitoring progress;
- Information on the resources that will be required to deliver the Strategy;
- Information on national and local policies and strategies that can help inform the Strategy;
- Identifying specific outcomes from the Strategy.

3.8 The District Council is engaged with the Bassetlaw Financial Inclusion Forum, multi agency group involving Citizen's Advice Bureau, Credit Union, Christians Against Poverty. The Chairman of the existing Bassetlaw Financial Inclusion Forum has indicated his willingness to look at a closer alignment of the Forum with the objectives identified in the Strategy

3.9 One of the key outcomes will be to raise public awareness. Budgetary provision has been approved to support the delivery of key messages to tenants and residents within Bassetlaw, including:

- Improving the quality of advice to increase awareness of sources of help and support;
- Increase the profile of the Credit Union;
- To support the delivery of other outcomes from the Strategy.

3.10 There are practical steps that Parish councils can themselves undertake to support these objectives. This could include identification of locations in their community where information can be provided; being aware of the key service providers and sources of support to help "passport" people; provide information of what is happening in local communities, particularly smaller areas where data often does not reflect local experiences. Another item on the agenda will cover Food Banks and there is scope to link into rural areas with this work. Copies of the "Money Maze" booklet produced by the District Council will be available for Parish reps at the meeting and more copies can be provided on request.

4. Implications

a) For service users

An element of the review would include access to services and information for rural residents.

b) Strategic & Policy

Rural issues have been identified as a priority area for the Council.

c) Financial - Ref: 12/427

The review will be contained with existing resources.

d) Legal – Ref: 331/10/17

None.

e) Human Resources

None.

f) Community Safety, Equalities, Environmental

The District Council's Equality Scheme recognises rural inclusion as an area for specific consideration.

g) Whether this is a key decision, and if so the reference number.

No.

5. Options, Risks and Reasons for Recommendations

The options are either to support a review taking place or not. As the Localism Act will impact on the District/Parish relationship and that there is an outstanding commitment to review the Parish Charter, it is recommended the review should be progressed.

6. Recommendations

That the Liaison Group notes the development of Bassetlaw District Council's Anti Poverty Strategy and Action Plan and encourage Parishes to consider practical ways in which they might be able to support the objectives.

Background Papers

Location

BASSETLAW DISTRICT COUNCIL

PARISH COUNCILS LIAISON GROUP

10th October 2012

REPORT OF SENIOR MANAGER SUPPORT SERVICES

RURAL CONFERENCE

Cabinet: Support Services
Contact: Stephen Brown
Ext: 3767

1. Public Interest Test

The author of this report, Stephen Brown, has determined that the report is not confidential.

2. Purpose of the Report

To advise the Liaison Group members of proposals for a Rural Conference in Bassetlaw.

3. Background and Discussion

3.1 The District Council recognises that there are very major challenges facing local communities and not least in our rural areas. The Council's Corporate Plan has identified the Council's commitment to organising a conference locally to provide a focus on rural issues and priorities. It is intended that one of the outcomes from the event would be the identification of locally agreed priorities serving as the springboard for development of a rural plan/strategy. This would include those matters where the District Council either has a direct role or can assist by lobbying. It would also see how joint working between partners can be further developed.

3.2 The following "long list" of issues has been identified for possible consideration at the Conference:-

- youth, skills/training/employment
- services and access to them
- older people
- transport
- IT/broadband
- health
- housing
- democratic engagement
- the localism agenda
- anti-Social Behaviour (and Policing)
- green energy

- supporting the work around poverty
- attracting businesses to rural areas

All Town/Parish Councils and Meetings, together with other organisations operating in rural areas, eg Tenants and Resident's groups have been contacted to identify priorities from this list, or to indicate issues they feel have been omitted.

4. Implications

- a) For service users

An element of the review would include access to services and information for rural residents.

- b) Strategic & Policy

Rural issues have been identified as a priority area for the Council.

- c) Financial - Ref: 12/427

The review will be contained within existing resources.

- d) Legal – Ref: 263/09/12

None.

- e) Human Resources

None.

- f) Community Safety, Equalities, Environmental

The District Council's Equality Scheme recognises rural inclusion as an area for specific consideration.

- g) Whether this is a key decision, and if so the reference number.

No.

5. Options, Risks and Reasons for Recommendations

This report is for noting.

6. Recommendations

That the Liaison Group notes the development of the Rural Conference and encourage Parishes to identify their items for consideration.

Background Papers

Location