

By: Bryan Sweetland, Cabinet Member of Environment, Highways and Waste

To: County Council – 21 July 2011

Subject: Acceptance by Kent County Council of Delegation of Fly-Tipping Enforcement Powers

Classification: Unrestricted

Summary: This report seeks a decision to affirm the acceptance of delegated executive powers to Kent County Council to enforce against fly-tipping, pursuant to section 101 Local Government Act 1972, section 2 Local Government Act 2000 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2000. It authorises the Corporate Director of Enterprise and Environment to discharge the Council's functions under the regulations and to accept the delegation of executive functions in respect of fly-tipping enforcement.

Introduction

1. Section 33 Environmental Protection Act 1990 – fly-tipping powers

Enforcement in respect of fly-tipping is a function of the waste collection authorities. Under the provisions of the Local Government Act 2000 and associated Regulations, referred to in the summary above, these powers are delegated to Kent County Council through formal agreements.

2. The formal decision to accept these delegations needs to be reaffirmed as certain agreements now require completion, in order to allow continued fly-tipping enforcement action on behalf of the waste collection authorities. To regularise the position the Regulations require Kent County Council to record formally its acceptance of the delegations of enforcement powers under section 33 Environmental Protection Act 1990 and associated provisions in subsequent legislation in so far as it relates to the investigation and enforcement of fly-tipping.

3. The purpose of this decision is therefore to ensure that fly-tipping enforcement continues to be sound with a clear audit trail of evidence and authority.

Conclusion

4. This decision establishes that Kent County Council is lawfully entering into agreements under the necessary legislation to discharge functions jointly via sharing or delegation of functions with the Kent waste collection authorities. It also helps to demonstrate that Kent County Council is doing "all it reasonably can to prevent crime and disorder in its area" as required by Section 17, Crime and Disorder Act 1998.

Recommendations

5. Kent County Council affirms its acceptance of delegated executive powers to take enforcement action under the provisions of section 33 Environmental Protection Act 1990 and subsequent associated legislation. Kent County Council will put these powers into effect either by reaffirming existing agreements or by entering into agreements with other local authorities pursuant to section 101 Local Government Act 1972, section 2 Local Government Act 2000 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2000.
6. The Corporate Director of Enterprise and Environment is authorised to discharge the Council's functions under the regulations and to accept the delegation of executive functions in respect of fly-tipping enforcement.

Background Documents:

Delegation agreements between Kent County Council and the waste collection authorities.

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