

1. **Environmental Protection Act 1990, Section 33, 34, 34(2A)**

Submitted by **Head of Environmental Health Services**

Portfolio **Environment and Recycling**

Ward(s) affected **All**

Purpose of the Report

To advise the Committee of action taken in respect of a Flytipping offence within the Borough and to seek authorisation to institute legal proceedings.

Recommendations

That: That legal proceedings be instituted in relation to the case mentioned below.

Reasons

The action should deter other persons from fly tipping within the Borough.

1. **Background**

On the 22 August 2013, a complaint was received of a fly tipping incident at Moss Lane, Madeley, Newcastle under Lyme. A visit to the area was carried out on that day, however the accumulation had been removed by the Newcastle Borough Streetscene team. The investigating officer received a series of photographs and letters from the streetscene offices, detailing the items from the flytipping incident.

At the third attempt on the 19 December 2013, the officer carried out a Police and criminal Evidence Act (PACE) interview, and under caution Mr MP confirmed that he had been responsible for tipping the waste. In view of the witness statement, photographs and PACE interview it would be prudent for the committee to consider the following issue.

2. **Issues**

Consideration should be given to bringing a prosecution as contrary to section 33 and 34, we have reason to believe that Mr MP deposited controlled waste on land without a waste management licence authorising such a deposit. He also failed to dispose of controlled waste otherwise than in accordance with a waste management licence. He has failed in his 'duty of care' to secure the transfer of waste to an authorised person or to a person authorised for transport purposes. A prosecution would be taken under section 33 or 34 (2A) Environmental Protection Act 1990 (As amended by

3. **Policy Considerations**

There are none arising from this report.

4. **Outcomes Linked to Corporate Priorities**

4.1 Creating a cleaner, safer and sustainable Borough.

- Streets and open spaces are clean and the community have pride in the Borough and take responsibility for seeing that it is clean and pleasant by reducing waste.
- The community is not put at risk from pollution or environmental hazards.

5. **Legal and Statutory Implications**

5.1 The Environmental Protection Act 1990 places a duty on the Council and provides powers.

6. **Equality Impact Assessment**

6.1 There are no differential equality impacts identified within this report.

7. **Financial and Resource Implications**

The Council would seek to recover costs during any court proceedings.

8. **Major Risks**

8.1 There are no major risks with this report.