

## **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 flytipping offences within the Borough and to seek authorisation to institute legal proceedings.

### **Recommendation**

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

### **Reasons**

A prosecution taken under sections 33 and 34 (2A) Environmental protection Act 1990 (as amended by the Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005) is in line with the Council Priority Creating a Cleaner Greener and Safer Borough. Creating an environment where the streets and open spaces are clean and the community maintains pride in the Borough. The action should deter other persons from fly tipping within the Borough.

### **1.     Background**

1.1     A complaint was received on the 23 January 2012, alleging that waste materials had been deposited on Wharmadine Lane, Ashley, Newcastle-under-Lyme. Following examination of the waste it was established that it contained a substantial amount of household items and details of correspondence from Mr SBS of Market Drayton. Mr SBS was invited for an interview at the Civic offices, but failed to attend. A second interview was arranged, and notice of this arrangement was hand delivered to the address of Mr SBS. Unfortunately Mr SBS failed to attend the second interview. In order to conclude the investigation authority is sought, 'subject to legal scrutiny', to institute legal proceedings.

### **2.     Issues**

2.1     Consideration should be given to bringing a prosecution as contrary to section 33 and 34, as we have reason to believe that Mr SBS deposited controlled waste on the 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. Mr SBS has failed in his duty of care to secure the transfer by him of household waste produced on his property 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 The Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005) .

### **3.     Policy Considerations**

There are none arising from this report.

4. **Outcomes Linked to Sustainable Community Strategy and 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**

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.