

Report - Scrutiny Investigation on Waste Enforcement

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Date: 4th July 2019



CONTENT

Foreword by the Chair	3
1. Recommendations	4
2. Introduction	5
3. Background and current situation	6
4. Methodology	7
5. The Evidence considered	10
6. Recommendations	12
7. Conclusions	15
Acknowledgements	17
Appendices:	18
Appendix 1	The Investigation Brief
Appendix 2	Examples of Evidence
Appendix 3	Presentation on the Environmental Protection Act (1990) and the provisions of benefit to the Council when dealing with waste problems
Appendix 4	Minutes of the Focus Group with Bangor University Students
Appendix 5	Waste and Recycling Questionnaire
Appendix 6	Waste and Recycling Questionnaire Results
Appendix 7	Minutes of the Focus Group with the Falls Prevention Group and Focus Group with the Dementia Go Group
Appendix 8	Questionnaire and Result of Questionnaires with Landlords
Appendix 9	Proposed Action Flow Chart, Sections 46 and 47
Appendix 10	Equality Impact Assessment

FOREWORD BY THE CHAIR

My report notes various issues and steps that the Cabinet could take in order to place the people of Gwynedd at the centre when planning and providing waste collection services and when co-planning and co-producing these services.

This Investigation acknowledges the huge amount of work that is already taking place and therefore we have focused on suggestions to introduce further improvements. Our sincere thanks are extended to all officers who have contributed to the work and to our requests for data and information.

Although we have considered the core element of Waste Management Enforcement, we have also noted a number of fields within the service where we believe that changes could lead to improvements to the service for customers and the broader population of Gwynedd.

Gratitude is also expressed to the Members of the Working Group who have worked with me on this Investigation, spending hours delving under the surface of this issue, and scrutinising the field thoroughly. We are particularly grateful to those who have contributed evidence and readily supported us in our work. Thanks are also conveyed to Cllr. Catrin Wager for Chairing the Working Group until her appointment to the Cabinet.

Councillor Stephen Churchman (Dolbenmaen Ward)
Chair of Investigation

July 2018

1. Recommendations

1. To use the powers of the Environmental Protection Act (1990), Sections 46 and 47 which relate to waste containers, to introduce a new procedure to fine residents and businesses where and when necessary, who dispose of their waste on the wrong day or in the incorrect way, as a matter of priority.
2. To undertake a county-wide promotion campaign to raise awareness of the waste and recycling arrangements, with a particular focus on the City of Bangor and acknowledging the geographical and demographical differences within the county at different times of the year.
3. To place "QR Code" stickers on recycling receptacles to allow 24 hour access to residents to their waste and recycling collection days and information on items that can be recycled.
4. To formalise collaboration arrangements between Council Departments.
5. To increase awareness of the Clinical Collections Services and Special Collection Service available for older people and disabled people to dispose of their waste. This can be done as a part of the broader promotion campaign.
6. To promote the current network of Recycling Centres and hold a specific campaign for the Bulky Waste Collection Service.

See page 12 for further information.

2. Introduction

2.1 Following a Notice of Motion submitted by Councillor Lesley Day to the Council meeting on 2 March 2017, the Council adopted the former-Member's motion to ask Cabinet Members to consider issuing penalties as a matter of urgency to residents and businesses:

- who dispose of their waste on the wrong day,
- who dispose their waste in the incorrect way,
- who leave their receptacle out on the street at all times.

The Investigation brief can be seen in **Appendix 1**.

2.2 In line with the Council's scrutiny processes, the matter was referred to the Communities Scrutiny Committee which decided that the best course of action would be to undertake a Scrutiny Investigation on the matter.

The following were appointed by the Communities Scrutiny Committee as members of the Investigation Group:

- Councillor Stephen Churchman (Chair)
- Councillor Keith Jones,
- Councillor Mike Stevens,
- Councillor Catrin Wager (up to 1 April 2019, when Councillor Wager was appointed to the Cabinet).

2.3 It was agreed that the objective of the Investigation Group would be to draw up clear recommendations based on robust evidence for consideration by the Cabinet Member, and to give appropriate consideration to any barriers and how they can be resolved.

3. Background and Current Situation

3.1 Many communities in Gwynedd are suffering from problems caused by those who dispose of their waste on the wrong day or in the incorrect way. The Council deals with a high number of complaints from the public about this matter.

3.2 Sections 46 and 47 of the Environmental Protection Act (1990) authorises County Councils to take enforcement steps in relation to crimes relating to waste collection and to issue fines where:

- A receptacle is left out on the wrong day,
- A receptacle is left out in the wrong location,
- A receptacle is left out on the street permanently,
- There is too much waste for the receptacle,
- Waste is being disposed of in the wrong receptacle.

It was noted that some Councils are already using these powers.

3.3 The Current Procedure

- i. When the Council becomes aware of the problem, a review is held which includes input from one of the Council's Street Enforcement Wardens.
- ii. If the individual complies, no further action is taken.
- iii. If the individual fails to comply, an informal warning letter is sent by the Council.
- iv. If the individual complies, no further action is taken.
- v. If the individual is unable to comply for the second time, the current policy does not allow for the Legislation to be implemented. This means that the bins continue to remain in the street, causing an obstruction to public roads and pavements, making it difficult for pedestrians to use them, particularly wheelchair users and parents with prams. Of course, this also creates an unfavourable image of communities across the county.

- vi. Should the Council incorporate the Environmental Protection Act (1990), it would be possible to issue a formal warning unless the individual would comply after receiving an informal letter. Further steps would then lead to a Court case.

As a Working Group, we are aware that it is important to strike a balance - an enforcement procedure needs to be considered; however, there is a need to accept situations where solutions are not available for every element, e.g. narrow streets and back streets.

4. Methodology

4.1 Seven meetings of the Scrutiny Working Group were held between July 2018 and June 2019 in order to gather evidence and discuss recommendations. A detailed work programme was agreed upon to address the brief. There were several different elements to the work programme:

4.2 Element 1 – Understanding and analysing the current situation. The Streetscene Manager (Highways and Municipal) provided considerable input to assist the members of the Investigation to gain an understanding of the field.

- Key information was received about the nature of the existing service;
- Two site visits were arranged to gather evidence, one in Bangor and one in Porthmadog. Feedback was received from the Members of the Working Group noting that the experience of visiting these locations had been very valuable to the investigation;
- A presentation was given by the Streetscene Manager on the current situation, including photographic evidence. Examples of the evidence gathered can be seen in **Appendix 2**.

4.3 Element 2 - Relevant Legislations

- A presentation was received from Geraint Brython Edwards (Gwynedd Council Solicitor) on relevant legislation, namely the Environmental Protection Act (1990)

("The Act"). This Act contains many provisions which assist the Council to deal with waste problems on land in general, including:

- fly tipping (section 33)
 - breach of duty of care in relation to waste (section 34)
 - waste receptacles (sections 46, 47, 47ZA and 47ZB)
 - statutory nuisance (sections 79 and 80).
- These are the sections of the Act that deal specifically with waste receptacles and are therefore most relevant to waste disposal on the incorrect day or in the incorrect manner:
 - Section 46: household waste containers
 - Section 47: commercial or industrial waste containers
 - Section 47ZA: fixed penalty notices
 - Section 47ZB: amount of fixed penalty under section 47ZA

4.4 Element 3 - Engaging with officers working in the Planning and Landlord Licensing field

- A presentation was given by Cara Owen (Planning Manager) on the issue of waste enforcement and planning arrangements. A discussion was held on ways in which the Planning Service could continue to improve the situation by ensuring that sufficient storage facilities were being considered for the waste and recycling containers when determining planning applications.
- It was noted that it would not be possible to demand a storage area of a specific size, but a request could be made for sufficient space to be earmarked.
- If a compound was created in any new development (flats), a condition could be imposed that the area be managed correctly with a bespoke management plan.
- It was noted that consideration also needed to be given to transportation matters within housing developments - e.g. suitable entrance for waste collection vehicles and turning space for lorries.

- A presentation was received from Carys Fôn Williams (Housing Manager - Supply and Enforcement) to share information on the enforcement rights held by Gwynedd Council Housing Department Officers to control waste.
- It was highlighted that the Housing Department implemented the Housing Act (Wales) 2014, and in accordance with the Act, every landlord must register and submit a licence application. One of the requirements of the licence is that the landlord has to inform tenants of the refuse and recycling collection arrangements. If the tenant does not comply, Housing Service officers could use their enforcement powers (provided that the waste is within the property's curtilage).
- It was noted that Waste and Recycling Officers ensured a sufficient provision of receptacles for houses in multiple occupation, i.e. larger bins for larger houses, and visited every student property during the first term in the University's timetable.
- It was noted that the Housing Officers did not have the right to punish a landlord if the tenant was at fault. Nevertheless, if the curtilage was untidy, officers would correspond with the landlord in writing or would visit the property to seek a resolution.

4.5 Observations were considered from some Members of the Working Group who had received comments from members of the public about their experiences of the waste and recycling service. These included matters outside this brief, mainly that the collections were made before 6am and that they could be inconvenient and noisy for residents. However, the Department is currently in the process of introducing changes to the collection arrangements in order to ensure improvements.

5. The Evidence considered

5.1 The Scrutiny Investigation Group considered evidence:

- By receiving a **presentation from Peter Simpson (Streetscene Services Manager, Highways and Municipal Department, Gwynedd Council)**, on the current situation regarding bins being permanently out on the street.
- By receiving a **presentation from Geraint Brython Edwards (Gwynedd Council Solicitor) on the Environmental Protection Act (1990) and the provisions that could benefit the Council when dealing with waste problems. See Appendix 3.**
- **A visit to the City of Bangor to see the length and breadth of the problems** relating to waste enforcement in the City. The visit was held by Peter Simpson (Streetscene Services Manager), who led a tour around the commercial area of the City (High Street), residential areas, including areas with a high density of students, such as Upper Bangor (Menai Ward), and Cae Llepa (Deiniol Ward) and private residential areas in the Hirael Ward.
- **A visit to the town of Porthmadog to gather evidence** of the problems in the area. The visit was conducted by John Clive Price (Waste and Streets Enforcement Officer) and Alan Hughes (Street Enforcement Warden), who led a tour around the town, focusing on the locations with the greatest number of waste and recycling problems. Residential and commercial areas were visited in order to gather relevant evidence.
- By receiving a **presentation from Carys Fôn Williams (Housing Manager - Supply and Enforcement, Adults, Health and Well-being Department, Gwynedd Council)**, on the **HMO practice guidance.**
- By receiving a **presentation from Cara Owen (Planning Manager, Environment Department, Gwynedd Council) on the issue of waste enforcement and planning arrangements.**

- By **holding a focus group with students from Bangor University, asking them about their use of the waste and recycling service.** See **Appendix 4.**
- By **engaging with Bangor University students during the Freshers Week Fair (Serendipity) at the University, and engaging with the people of Gwynedd at the Gwynedd Older People Conference.** The questionnaire can be seen in **Appendix 5**, and the results can be seen in **Appendix 6.**
- By **engaging with the people of Gwynedd** and encouraging them to complete a questionnaire on their use of the waste and recycling arrangements, any obstructions facing them and where they store their bins on the day when they are not collected. The questionnaire can be seen in **Appendix 5**, and the results in **Appendix 6.**
- By **holding a focus group with the Falls Prevention group** at Glaslyn Leisure Centre. The results can be seen in **Appendix 7.**
- By **holding a focus group with the DementiaGo group** at Glaslyn Leisure Centre. The results can be seen in **Appendix 7.** Thanks to Gwenllian Roberts (Recycling Officer) and Lois Owens (Engagement Support Officer) for contributing to the success of the engagement sessions.
- By **engaging with Cllr Peter Read as the Gwynedd Disabilities Champion and as a wheelchair user** to identify whether any improvements can be made to the waste and recycling service to assist wheelchair users to make full use of the service. The suggestions received from this engagement have been included in the recommendations of the report.
- By engaging with landlords who have properties in Gwynedd by means of an electronic questionnaire, in order to ascertain their views on the waste and recycling service. A copy of the questionnaire and the results can be seen in **Appendix 8.**

6. Recommendations

- 6.1 The Investigation has identified a number of recommendations where it is considered that there is room for improvement. This is not a criticism of the service that is responsible for the field. However, in order to further improve our response to the demand and attempt to respond to the challenges facing the service to the future, the Scrutiny Working Group is proposing recommendations to be submitted to the Scrutiny Committee and the Cabinet Member.
- 6.2 **It is recommended that powers from the Environmental Protection Act (1990), Sections 46 and 47 which relate to waste containers are used to introduce a new procedure where and when necessary, whereby fines are imposed on residents and businesses who dispose of their waste on the wrong day or in the incorrect way as a matter of priority.**
- Throughout the investigation, much evidence was gathered which shows that there is an obvious problem with bins being left out on the street all the time, and receptacles being used incorrectly. By using the powers of the Act, it is anticipated that this situation can be improved. A flow chart showing how we will recommend for the Act to be implemented can be seen in **Appendix 9**. The successful implementation of these powers will depend on back-office support and effective software.
 - It is important to note that it is not the intention to start fining everyone immediately, however, introducing powers under Section 46 and 47 will also include a comprehensive promotional campaign to change behaviours. As a part of the Investigation, an Equality Impact Assessment was carried out and the Assessment gives specific attention to different equality features, such as race, gender, language, religion or belief and age. See the full report in **Appendix 10**. Every case will be reviewed on its own merits and we will not discriminate against anyone because of their equality characteristics or circumstances.

6.3 It is recommended for a county-wide promotion campaign to be undertaken to raise awareness of the waste and recycling arrangements, with particular focus on the City of Bangor and acknowledging the geographical and demographical differences within the county at different times of the year.

- It is recommended that Gwynedd Council collaborates closely with Bangor University in order to improve the quality of the local environment and raise the awareness of students of the waste and recycling arrangements in the City. At the moment, the Council and the University have a good working relationship, and collaborate on a number of campaigns, e.g. the "Hey Punk, sort your junk" campaign - namely an end of term campaign to dispose of waste responsibly and to reduce rubbish on the city's streets.
- In order to ensure the greatest possible impact, it is recommended that specific promotional activities are held at different periods of the academic year, using a range of various methods and mediums, e.g. social media campaigns by using video clips, door-to-door campaigns by Recycling Officers, and on-line campaigns by using the Council and University websites.

6.4 It is recommended that QR Code Stickers are placed on recycling receptacles to allow residents 24 hour access to their waste and recycling collection days and information on items that can be recycled.

- At the moment, paper calendars are distributed to every home, and details of collection days are available on the Council's website. However, residents (specifically students) are not always aware of the waste and recycling calendar dates.
- It is recommended that stickers with QR codes are placed on receptacles that will link directly to the relevant pages on the Council's website, where residents can check their collection day and download a copy of their calendar by inputting their post code.

6.5 It is recommended that collaboration arrangements should be formalised between Council Departments.

- Following discussions with the Working Group, the Street Enforcement Manager, the Planning Manager and Housing Manager, it is clear that there are opportunities to improve the situation by strengthening the relationship and the communication across the Departments and Services.
- Environment Department: There is a clear opportunity for the Council's Environment Department to give detailed attention to concerns relating to unsuitable HMO accommodation developments in a number of locations across the City of Bangor. To this end, the procedure introduced recently of drawing attention and questioning applicants for bin storage area considerations in planning applications is to be welcomed. Consideration should also be given to transportation matters within new housing developments - e.g. suitable entrance and turning space for lorries. The Planning Service could manage this also.
- Highways and Municipal Department: It is recommended that the Highways and Municipal Department establishes a general e-mail inbox in order to receive planning consultations and that it collaborates more closely with other Council Departments and Services, for example, with the Adults, Health and Well-being Department to ensure that the landlords of houses in multiple occupation (HMOs) ensure that there is a sufficient provision of receptacles, e.g. by ensuring larger bins for large houses and with the Environment Department regarding planning consultations.

6.6 It is recommended that awareness should be raised of the Clinical Collections Services and Special Collection Service.

- A Special Collection Service is available for those who cannot take their bins or recycling boxes out to the collection point due to disability or illness.

- During the focus groups with older people and the people living with dementia, it was noted that many individuals were unable to take their receptacles to the collection points, e.g. because of the weight of the receptacles.
- It is suggested that the Department works with the Council's Communication and Engagement Service to hold a promotional campaign to raise awareness of these valuable services.

6.7 It is recommended to promote the existing network of Recycling Centres (locations and opening times) and hold a specific campaign for the Bulky Waste Collection Service.

- The Recycling Centres are a resource that are highly valued by the residents of Gwynedd and is key to the effort to reduce fly tipping levels in the County. The Recycling Centres make an important contribution to the County's recycling levels with levels in the Centres being higher than the roadside recycling levels.
- It is suggested that the Department considers working with the Council's Communication and Engagement Service to hold a campaign to raise awareness of these services.

7 Conclusions

- 7.1** The Working Group is of the opinion that the Waste and Recycling Service provides a very valuable service for the people of Gwynedd but that they are under pressure to respond to needs and high expectations, especially in some areas.
- 7.2** Over the last few years, the Service, as the rest of the Highways and Municipal Department had to cope with financial cuts, which meant that they had to prioritise their resources.
- 7.3** If we are to ensure that the streets in Gwynedd are clean and tidy, it is essential that we build a good partnership between the Council and the residents and businesses of the County. In the past, the Service's "behaviour change" campaigns has proved

some success. However, the demand is high and the resources available to address them are dwindling. To the future, it is essential that a clear and firm focus on raising awareness and behaviour change campaigns are central to the work of the Service.

- 7.4** There is much evidence that Gwynedd Council, in partnership with the University, has taken steps to deal with waste and recycling problems, by holding 'blitz' campaigns, publicity campaigns, the "Hey punk, sort your junk" campaign and discussions with the Officers from the Students Union. As a result of the focus group with Bangor University students, it is clear that using social media and websites, as well as knocking on the doors of student accommodation, is the most effective way of raising awareness.
- 7.5** As part of the Investigation, we made successful contact with 26 landlords, who were honest and open about their use of the service, their role and their engagement with tenants on waste and recycling matters.
- 7.6** Research undertaken by the Investigation has shown that a much stricter approach must be taken towards environmental crimes and to move to stricter arrangements for imposing fines. The above recommendations include steps to do so, including a specific recommendation to issue a fine as a matter of priority for residents and businesses who dispose of their waste on the wrong day or in the incorrect way and also a recommendation to raise awareness about waste and recycling arrangements so that the people of Gwynedd are prepared for the change.
- 7.7** An Equality Impact Assessment was carried out as part of the Investigation. The Assessment notes that the recommendation of issuing a fine as a matter of priority for residents and businesses who dispose of their waste on the wrong day or in the incorrect way is likely to have a marked negative impact on equality characteristics, provided that the steps noted are actioned.

ACKNOWLEDGEMENTS:

The members of the Scrutiny Investigation wish to thank the following who contributed evidence and gave valuable support to the investigation:

- Steffan Jones (Head of Highways and Municipal Department)
- Peter Simpson (Streetscene Services Manager, Highways and Municipal Department)
- Jennifer Rao (Business Support Officer - Lead Officer for the Investigation, Corporate Support Department)
- Lowri Evans (Member Support Officer, Support Officer for the Investigation, Corporate Support Department)
- Councillor Mair Rowlands (Menai Ward, Bangor)
- Councillor Catrin Wager (Menai Ward, Bangor and Cabinet Member for the Highways and Municipal Department)
- Councillor Peter Read (Abererch Ward)
- Geraint Brython Edwards (Solicitor, Gwynedd Council)
- Gwenllïan Roberts (Waste and Recycling Officer, Highways and Municipal Department)
- John Clive Price (Waste and Streets Enforcement Officer, Highways and Municipal Department)
- Alan Hughes (Street Enforcement Officer, Highways and Municipal Department)
- Cara Owen (Planning Manager, Environment Department)
- Carys Fôn Williams (Housing Manager - Supply and Enforcement, Adults, Health and Well-being Department)
- Iwan Evans (Housing Environmental Health Officer, Adults, Health and Well-being Department)
- Vera Jones (Democratic Services Manager, Corporate Support Department)
- Emma Quaeck (DementiaGo Programme Manager, Adults, Health and Well-being Department)
- Lois Owens (Engagement Support Officer, Corporate Support Department)
- Delyth Gadlys Williams (Corporate Policy Officer, Corporate Support Department)
- Gwynedd Council Translation Unit
- Rhiannon Williams (Marketing Officer, Rent Smart Wales)
- Gwen Holland (Sustainability Research Officer and Campus Waste Coordinator, Bangor University)

APPENDICES

Appendix 1 - The Investigation Brief

Appendix 2 - Examples of Evidence

Appendix 3 - Presentation from Geraint Brython Edwards of the Environmental Protection Act (1990) and the provisions of benefit to the Council when tackling waste problems

Appendix 4 - Minutes of the Focus Group with Bangor University Students

Appendix 5 - Waste and Recycling Questionnaire

Appendix 6 - Waste and Recycling Questionnaire Results

Appendix 7 - Minutes of the Focus Group with the Falls Prevention Group and Focus Group with the Dementia Go Group

Appendix 8 - Questionnaire and Result of Questionnaires with Landlords

Appendix 9 - Proposed Action Flow Chart, Sections 46 and 47 Environmental Protection Act (1990)

Appendix 10 - Equality Impact Assessment