

Committee(s):	Date(s):	Item no.
Epping Forest and Commons	14 May 2012	
<b>Subject:</b> Enforcement of Epping Forest Byelaws: 31 September 2011 to 29 February 2012		<b>Public</b>
<b>Report of:</b> Superintendent of Epping Forest SEF 13/12		<b>For Information</b>
<p style="text-align: center;"><b><u>Summary</u></b></p> <p>This report informs your Committee of the byelaw enforcement activity undertaken by Epping Forest Keepers within Epping Forest during the 5 month period between 31 September to 29 February 2012.</p> <p>The report shows a general decrease in the levels of Byelaw enforcement during the period of 2005 to 2011, as a part of a conscious programme of informal education rather than formal prosecution or warning. This is evidenced by the number of “Advisory conversations” carried out by Forest Keepers.</p> <p>There is currently a marked decrease in both enforcement activity and advisory conversations for the reporting period, which reflects significant long term sickness absences and staff turnover in the Forest Keeper Teams.</p> <p><b>Recommendations</b></p> <p>I recommend that the report be received.</p>		

## **Main Report**

### **Background**

1. Epping Forest Keepers possess constabulary powers under section 43 of the Epping Forest Act 1878, for both the Essex and Metropolitan Police Districts. Forest Keepers have the power to enforce both the Epping Forest Byelaws and selected areas of relevant national legislation.

2. This biannual report provides information on the number of prosecutions and warning letters that have been issued by the Superintendent of Epping Forest during the 5 months between October 2011 and February 2012. This report only covers 5 months instead of the usual 6 months. This is necessary as a result of the need to have Committee reports ready for consultation earlier than in the past and will bring this report back in line with a 6 monthly reporting period in the future.
3. On the 1 April 2004, in line with the City of London Police procedure, because of their Constabulary powers, the Forest Keeper Service adopted the Independent Police Complaints Commission (IPCC) system. This makes Forest Keepers subject to the national standard on behaviour. The IPCC standard sets out how complaints should be handled, and if something has gone wrong how lessons should be learnt. The IPCC approach complements the City of London complaints procedure.

### **Current position**

4. There have been 5 prosecutions for byelaw offences during the period under report, 3 for illegal fungi picking, 1 for taking more than the prescribed amount of wood and 1 for driving a vehicle on the Forest. Details of the Prosecutions are shown in Table 1 overleaf
5. There has been 1 warning letter sent for a byelaw offence during the period under report. This was for “Bringing upon the Forest any dog which worries or chases any bird or animal in or upon the Forest”.
6. The level of Byelaw enforcement over the period 2005/2012 is shown in Tables 2&3 overleaf. The tables show a clear fall in both the number of prosecutions and warning letters. This decrease in part reflects the reduction in the number of Forest Keepers from 19 prior to the 2007 Resources Review to a level of 8, and finally 12 under the 2009 Mounted Officer Review. However, much of that steady downward trend is the result of a conscious effort which is being made to educate those people found to be breaking the Byelaws, rather than resorting to a more formal approach.
7. The sharp rise in prosecutions for 2010 was as a result of the withdrawal of the “fungi picking licence scheme”, a decision taken by your Committee in November 2008 and the abundance of fungi in the Forest during the autumn of 2010.
8. The focus on educating Forest users is also part of the strategy of the 12 Forest Keepers who form the new Area teams launched in October 2009.

To reflect this change Forest Keepers now record the number of “Advisory conversations” with Forest users as one of the Epping Forest Key Performance Indicators (KPI) they are responsible for; details are shown on Table 4 overleaf. Enforcement Activity has been restricted during the reporting period with a reduction in both prosecutions and advisory conversations, which reflects reduced staffing levels due to long term sickness absence and staff leaving the Forest Keeper Service.

9. A prosecution will always be sought, where evidence allows, for all environmental crime and for any offences against a member of staff. All other cases are investigated on their own merit using the recommendations of those involved and the impact on the Forest.

### **Financial and Risk Implications**

10. At the meeting of 9th May 2011 your Committee approved a 50% increase in costs requested and the addition of a standard fly tipping disposal charge. Court costs are based on the average number of hours that Forest Keepers and administration staff spend on a case. The standard fly tipping disposal charge is calculated on the running costs, including staff costs, of the compactor lorry used to remove the waste plus the cost per tonne for disposal. The charges are shown in Table 5 overleaf.
11. The cost of taking a case to the local Magistrates’ Court is initially covered by the local risk budget of Epping Forest in the form of staff costs. These monies are then put to the Court as “case costs” and can be recovered at the Magistrates’ discretion using section 18 of the Prosecution of Offences Act 1985. The latest level of costs put to the Court at this time are as shown in Table 5 overleaf and are subject to review on a regular basis. If additional Court appearances are required then the costs are adjusted as necessary. Also shown in Table 5 is the level of costs requested for the disposal of dumped waste as a result of a Byelaw offence.
12. These costs are not always awarded in full, and are often unpaid by the guilty parties. It is the responsibility of the Courts to recover these monies and pass them on to the City of London. Payments to the City of London currently broadly reflect the national average fine collection rate of 63%.
13. The Domestic Violence, Crime and Victims Act 2004 introduced from 1st April 2007 a “Victims surcharge” of £15.00, which is levied in addition to the fine and is aimed at helping improve services for victims of crime.

## **Legal implications**

14. Prosecutions are brought for breaches of the Epping Forest Byelaws under the Epping Forest Act 1878 (as amended). Prosecutions are also brought under section 33 of the Environmental Protection Act 1990 and other relevant legislation where appropriate.
15. The common law jurisdiction law of costs states that in general ‘costs follow the event’ so the successful party in litigation is able to recover their costs.

## **Strategic Implications**

16. The City Together Strategy is directly supported by the enforcement of Byelaws within the City of London Open Spaces. In particular this strategy matches the *City Together* theme of “a World Class City which – protects, promotes and enhances our environment:
  - To promote and enhance safe access to the City Of London Open Spaces
  - To improve people’s health, safety and welfare within the City Of London Open Spaces environment through proactive and reactive advice and enforcement activities.
  - To protect and enhance the City of London Open Spaces environment and public realm
  - To conserve and enhance biodiversity within the City of London Open Spaces
  - To continue to ensure the City of London Open Spaces are a safe place in which to do business, work, visit and live.

## **Conclusion**

17. The enforcement of the Epping Forest Byelaws promotes the protection and enhancement of the Forest and assists with the safety and education of those who choose to use it. Byelaw enforcement is one of many tools available to manage the Forest, but is only used where appropriate and necessary, and increasingly as a last resort.

## **Background Papers**

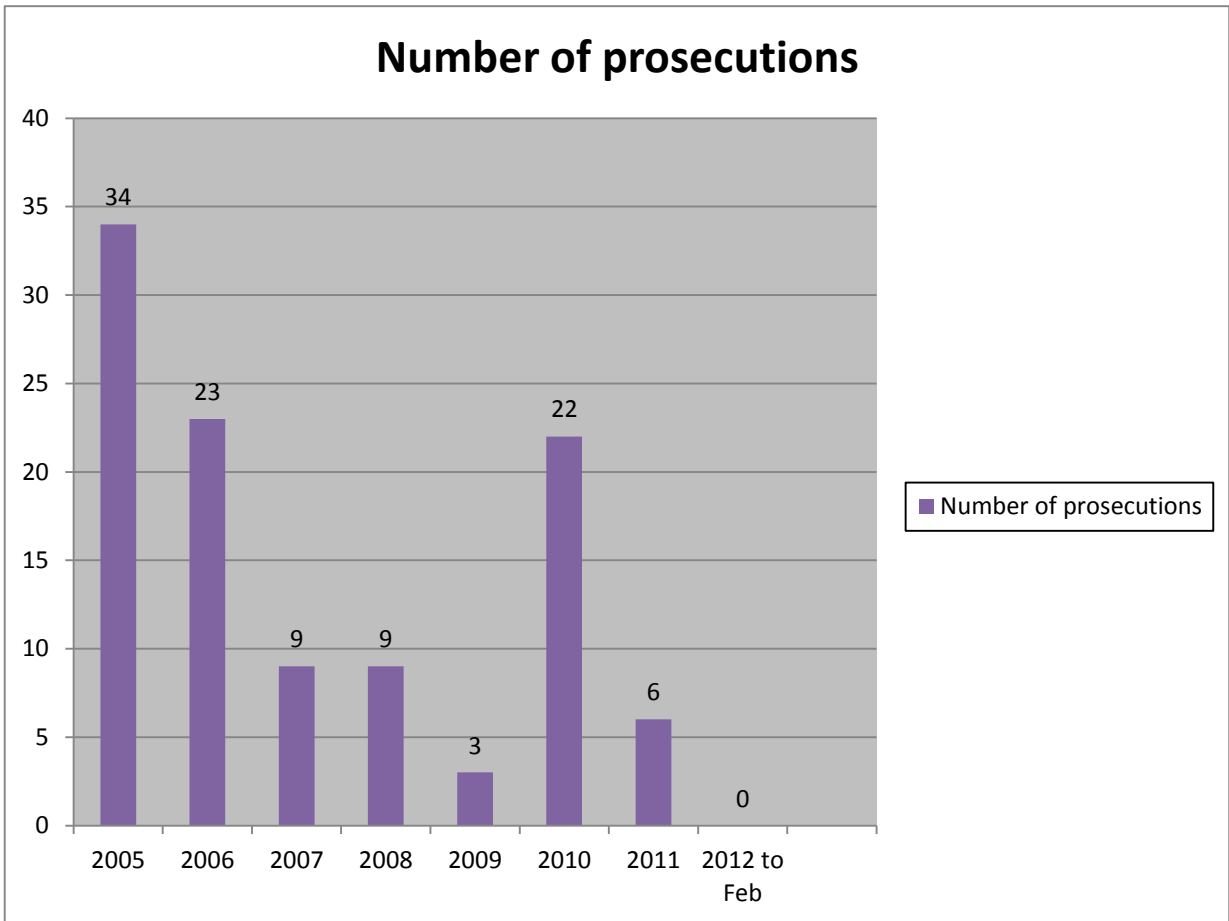
***Department for Constitutional Affairs ‘Fines Collections’ HMSO HC1049  
25.05.06***

**Table 1: Epping Forest Byelaw Prosecutions:**

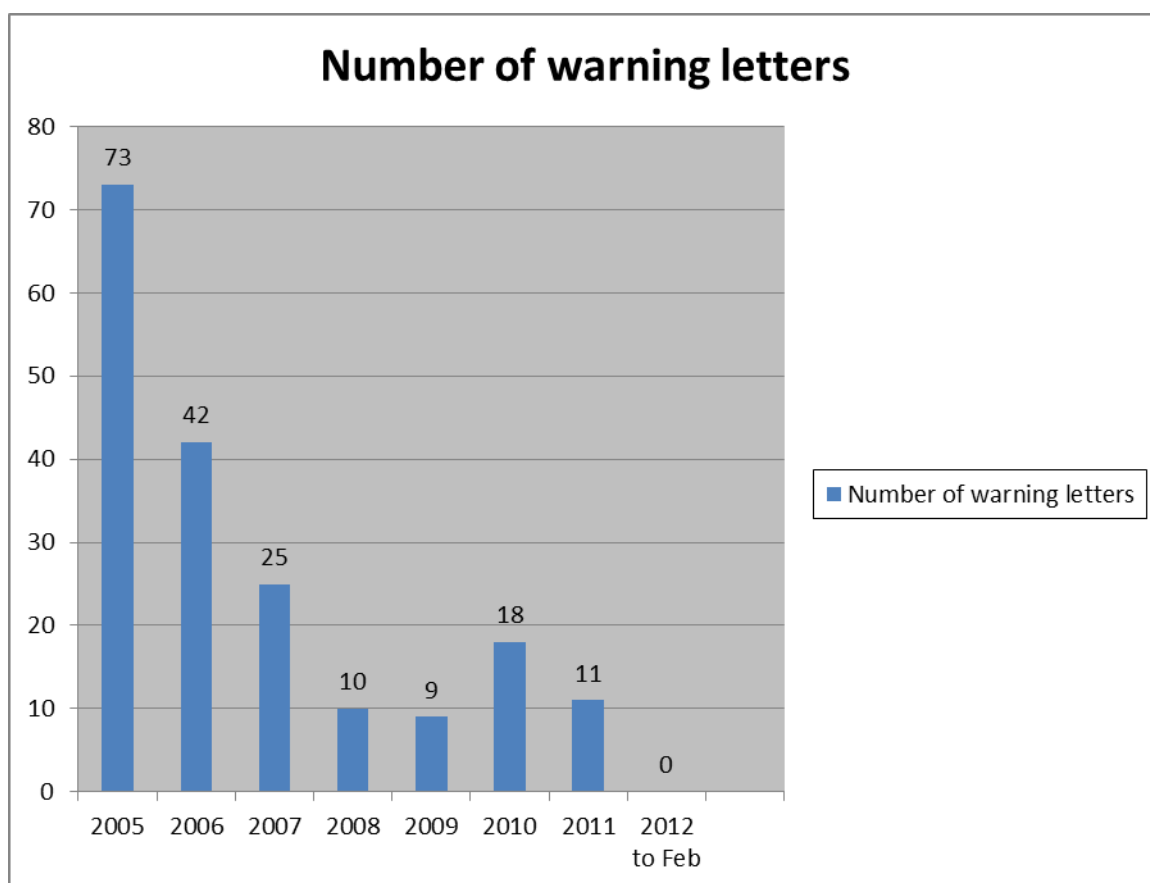
**October 2011 to February 2012**

<b>Name</b>	<b>Court</b>	<b>Byelaw offence(s)</b>	<b>Outcome</b>
Darius Razanta	Harlow	Removing fungi from the Forest	Fine £100.00 Costs £240.00 Surcharge £15.00
Steve Cooper	Harlow	Removing more than the prescribed amount of wood from the Forest.	Fine £50.00 Costs £240.00 Surcharge £15.00
Elena Burenkova	Harlow	Removing fungi from the Forest	Fine £50.00 Costs £120.00 Surcharge £15.00
Vladimer Burenkova	Harlow	Removing fungi from the Forest	Fine £50.00 Costs £120.00 Surcharge £15.00
Lee Beswick	Harlow	Driving a vehicle beyond 45metres	Fine £116.00 Costs £240.00 Surcharge £15.00

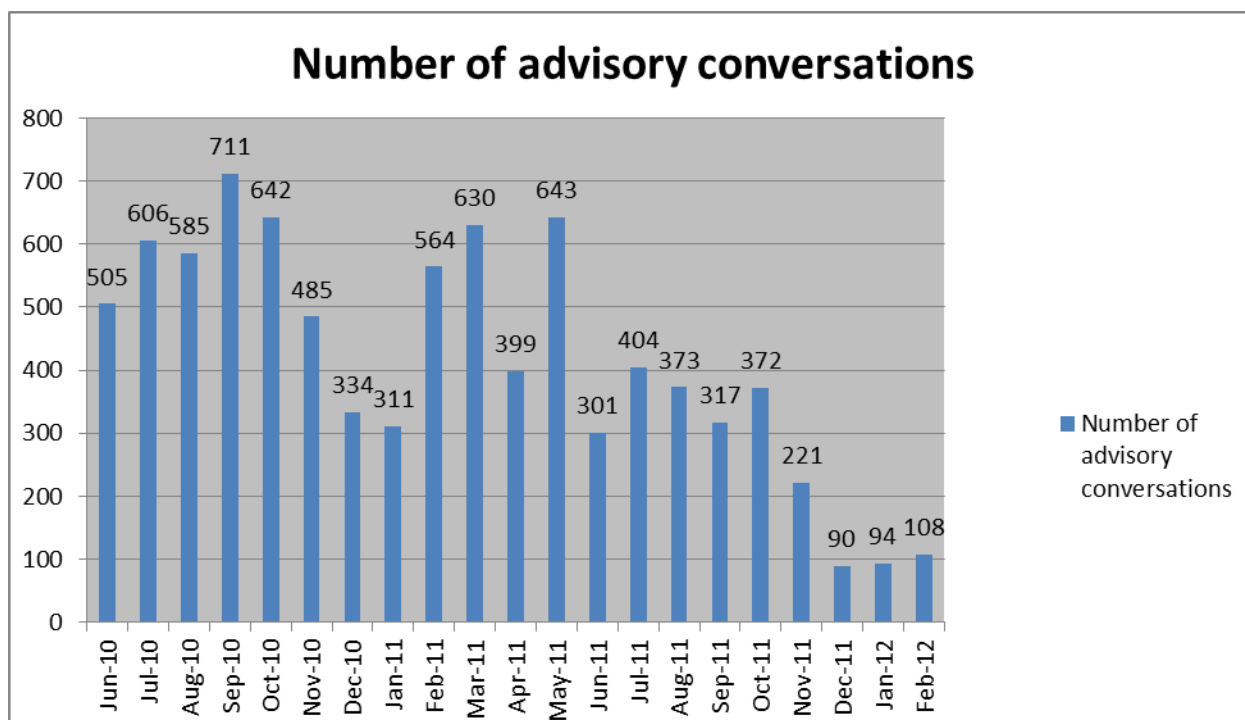
**Table 2: Epping Forest Byelaw Prosecutions:**  
**Years 2005-2012**



**Table 3: Epping Forest Byelaw Warning letters:  
Years 2005-2011**



**Table 4: Forest Keeper Advisory Conversations**



**Table 5: Tariff of “Court Costs” requested at Magistrates Court**

	<b>2010/11</b>	<b>2011/12</b>
Forest Keeper’s initial involvement, reports etc.	£40	£60
Office Administration	£40	£80
Forest Keeper’s Court appearance	£40	£80
Other costs, travel etc	£40	£20
	£160	£240
Costs requested for disposal of dumped waste (minimum 1 tonne)	Nil	£128
+ each additional tonne	Nil	£97
Flytipping Reward Scheme	Up to £500	Up to £500

**Contact:**

*Keith French / keith.french@cityoflondon.gov.uk / 020 8532 5310*