

Committee(s):	Date(s):
Epping Forest and Commons	10 March 2014
Subject: Epping Forest Enforcement of Activity: 1 January 2013 to 31 December 2013	Public
Report of: Superintendent of Epping Forest	For Decision

Summary

This report informs your Committee of the byelaw enforcement activity undertaken by Epping Forest Keepers within Epping Forest during the period of 1 January 2013 to 31 December 2013.

The report shows a similar level of Byelaw enforcement during the period of 2007 to 2013, with the exception of the 2010 peak which was as a result of a high level of prosecutions for fungi picking and lighting fires. The period of 2007 to date covers a conscious programme of informal education rather than formal prosecution or warning. This is evidenced by the 7,075 "Advisory conversations" conducted by Forest Keepers during the period under report, an increase of 2,828 or 66.6 % on the figure of 4,247 reported for 2012.

There were eight prosecutions undertaken during the period, two for dogs not under effective control, two for fly tipping, two for riding a quad bike on the Forest, one for riding a horse in a restricted area and not displaying a current licence and one for taking a vehicle more than forty five metres from the highway.

There have been eleven warning letters sent for various misuse of the Forest, including, Taking firewood, feeding wildfowl, dog not under effective control, metal detecting, obstructing an officer, and taking a vehicle onto Forest land.

The level of Court costs and charges for the disposal of fly tips has remained the same for three years. Your Committee approved a 50% increase in May 2011. It is proposed to increased charges by 10%, in line with the three year Retail Price Index (RPI) of 10.01%.

Members are asked to:

- Receive this report
- Approve the proposed increase in Court costs and fly tipping disposal charges.

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 annual report provides information on the number of prosecutions and warning letters that have been issued by the Superintendent of Epping Forest during 2013.

Current Position

3. There have been eight prosecutions for byelaw offences during the period under report; two were for a breach of byelaw 3(36) "any dog not kept under effective control". Two more were for a breach of the Environmental Protection Act 1990 Section 33, fly tipping on Forest land. Three further prosecutions were for breaches of byelaw 3(11) b "driving a vehicle more than 45 meters from the highway", one was a 4x4 car and the others were quad bikes. The other prosecution was for a breach of byelaw 3(26) a "not displaying a current horse licence disc" and Section 7(a) of the Various Powers Act 1977, The Regulation of Public Access to Epping Forest. Details of the prosecutions are shown in Table 1 below.
4. There have been eleven warning letters sent for byelaw offences during the period under report; two were for excessive feeding of wildfowl, four were for taking a vehicle onto Forest land, one was for taking more than the prescribed amount of fire wood, byelaw 3(4) "collection in any one day of more than 12kgs of loose, dead or drift wood, of which no piece shall exceed 5cm. in diameter and 91cm in length".
5. The four remaining warning letters were sent, one for metal detecting without a licence, one for obstructing a Forest Keeper, one for disorderly conduct and one for having a dog not under effective control.
6. The level of byelaw enforcement over the period 2005/2013 is shown in Tables 2 & 3. The tables show a clear fall, from 2005/2006, 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 also 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. Prosecutions have averaged 9 per year since 2007 with a sharp rise in prosecutions for 2010 as a result of the withdrawal of the "fungi picking licence scheme" in November 2008 and the abundance of fungi in the Forest during the autumn of 2010. The low prosecution levels of three in 2009 and three in 2012

were as a result of very bad seasons for fungi, resulting in virtually no illegal picking.

8. To reflect the new focus on education Forest Keepers now record the number of “Advisory conversations” with Forest users as one of the Epping Forest Key Performance Indicators (KPIs) they are responsible for; details are shown in Table 4. Advisory conversations rose by 66.6% from 4,247 in 2012 to 7,075 for the current reporting period.
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 offences are investigated on their own merit using the recommendations of the officers involved and the impact on the Forest.
10. At the meeting of 9 May 2011 your Committee approved a 50% increase in Court 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.
11. There has been no increase in Court costs requested or fly tipping disposal charges since 2011 whereas in that time the Retail Price Index (RPI) has risen by 10.01%, 4.5% in 2011, 2.8% in 2012 and 2.5% in 2013.

Options

12. There are two options available:
 - Costs remain the same as a result of the 50% increase agreed in 2011
 - or, a price rise in line with the RPI of 10% is added to the current figures

Proposals

13. It is proposed that the Court costs and fly tipping disposal charges are increased by 10%. This reflects the three year 9.8% rise in RPI. Figures shown in Table 5 below.

Corporate & Strategic Implications

14. 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.

Implications

15. **Financial-** 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 levels of costs put to the Court are as shown in Table 5 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.
16. 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 collection rate of 52%.
17. From 1 April 2007 the Criminal Justice Act 2003 (Surcharge) Order 2012 introduced a “Victims surcharge”, which is levied in addition to the fine and is aimed at helping improve services for victims of crime.
18. **Legal -** Byelaws have been made by the Conservators under section 36 of the Epping Forest Act 1878 (as amended). Any person convicted of an offence against the byelaws is liable to a fine not exceeding level 2 on the standard scale (currently £200). Prosecutions are also brought under the Environmental Protection Act 1990 and other relevant national legislation where appropriate.
19. **HR -** Forest Keepers receive personal safety training together with professional witness and court training to support the enforcement of the Epping Forest byelaws.

Conclusion

20. 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.
21. The level of costs and fly tipping disposal charges requested from the Courts should be reviewed and increased in line with the RPI.

Table 1: Epping Forest Byelaw Prosecutions 2013

Byelaw offence(s)	Court	Outcome
Environmental Protection Act 1990. Fly tipping	Thames Magistrates Bow.	Fine £100.00 Costs £340.00 Surcharge £20.00
Not displaying a current horse riding disc and riding in a restricted area.	Chelmsford	Fine £300.00 Costs £240.00 Surcharge £20.00
Dog not under effective control	Thames Magistrates Bow.	Fine £130.00 Costs £200.00 Surcharge £20.00
Environmental Protection Act 1990. Fly tipping	Chelmsford	Fine £150.00 Costs £240.00 Surcharge £20.00
Riding a quad bike on Forest land	Chelmsford	Fine £125.00 Costs £240.00 Surcharge £20.00
Riding a quad bike on Forest land	Chelmsford	Fine £125.00 Costs £240.00 Surcharge £20.00
Taking a vehicle more than 45 metres. from the highway	Chelmsford	Fine £65.00 Costs £240.00 Surcharge £20.00
Dog not under effective control	Harlow	12mnth conditional discharge. Costs £300.00 £129.58 compensation
		Total Fines £995 Total costs £2,040

Table 2: Epping Forest Byelaw Prosecutions:
Years 2005-2013

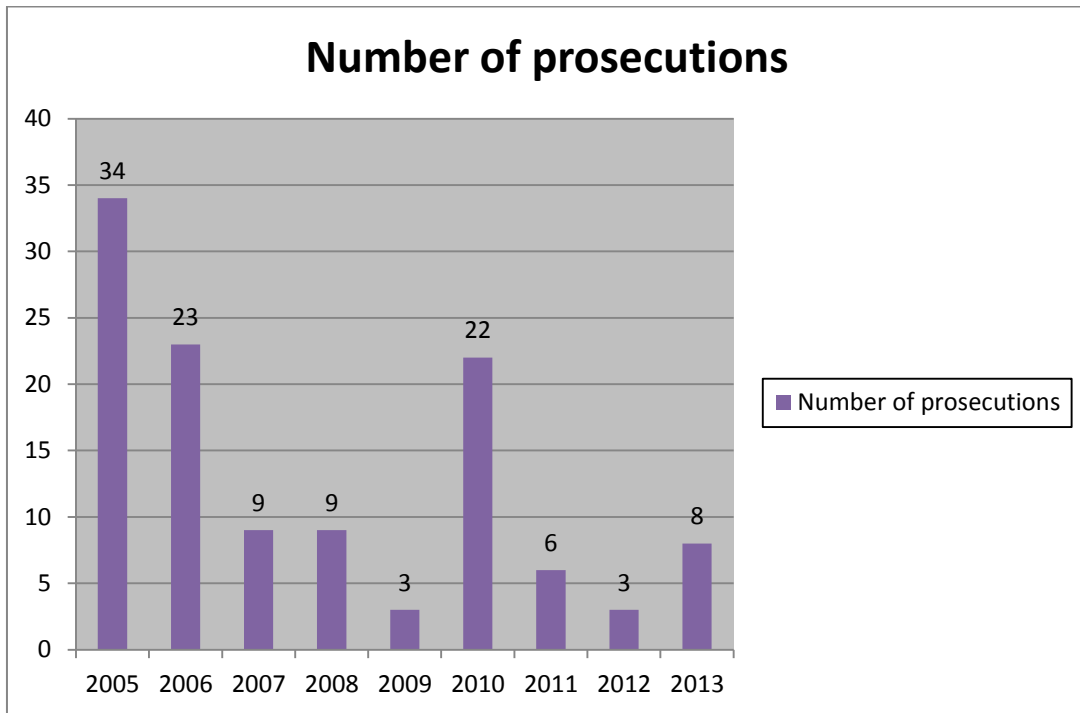


Table 3: Epping Forest Byelaw Warning letters:
Years 2005-2013

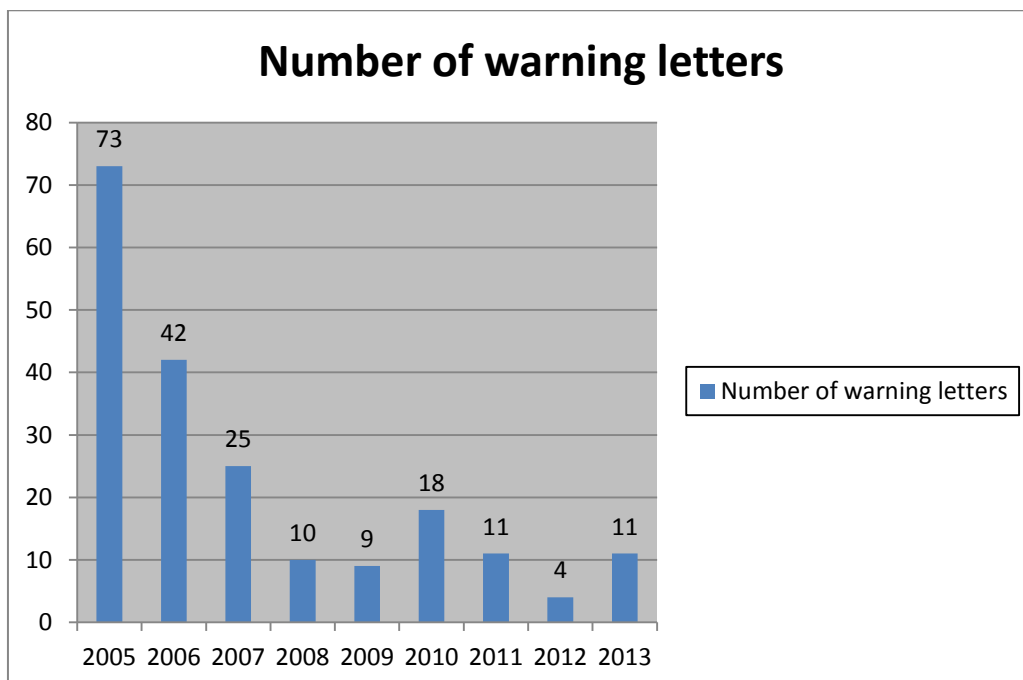


Table 4: Forest Keeper Advisory Conversations

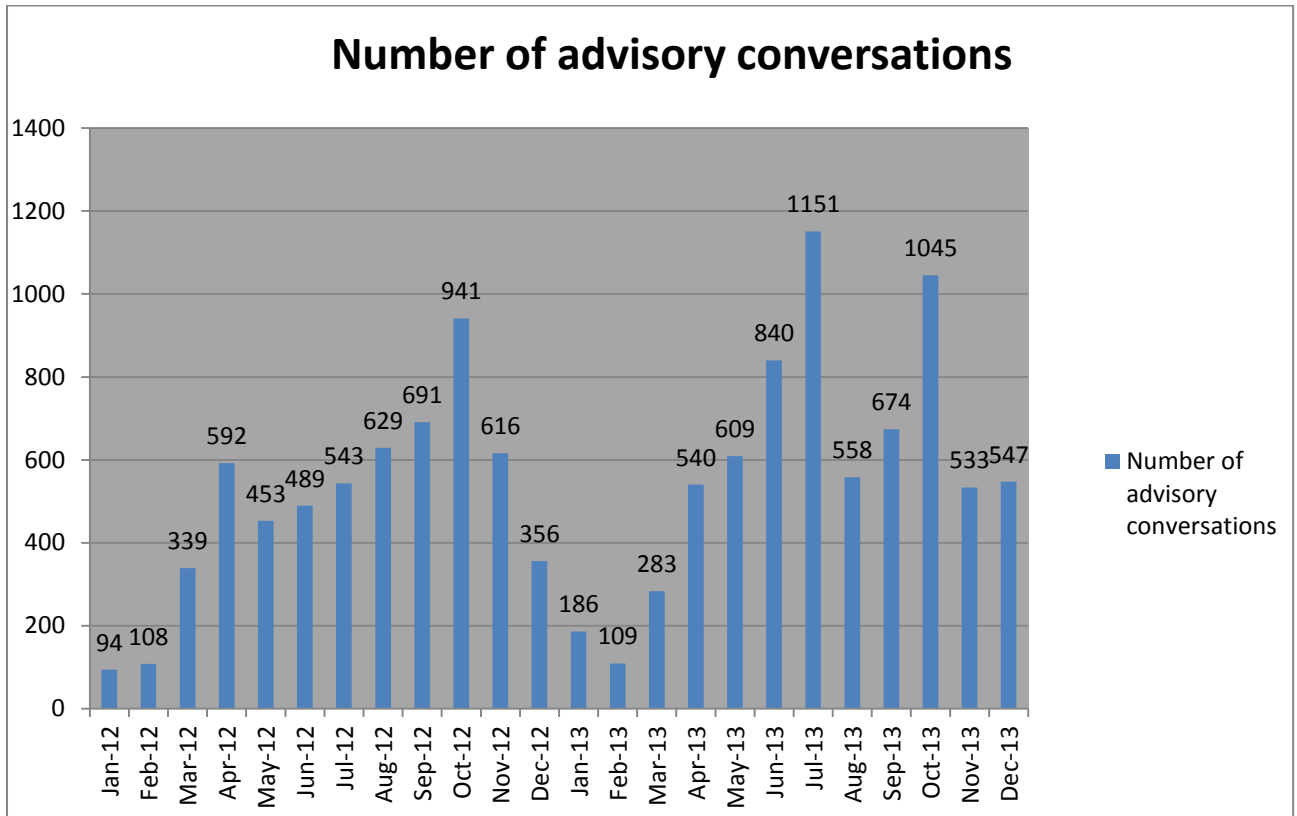


Table 5: Current and proposed 2014 Tariff of “Court Costs” requested at Magistrates Court

	2011/12/13	2014 (proposed tariff)
Forest Keeper’s initial involvement, reports etc.	£60	£66
Office Administration	£80	£88
Forest Keeper’s Court appearance	£80	£88
Other costs, travel etc.	£20	£22
	£240	£264
Costs requested for disposal of dumped waste (Minimum charge for up to 1 tonne)	£128	£141
+ each additional tonne	£97	£107
Flytipping Reward Scheme	Up to £500	Up to £500

Appendices

- None

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