

Committee(s)	Dated:
Epping Forest and Commons	09/03/2015
Subject: Epping Forest Enforcement of Activity: 1 January 2014 to 31 December 2014	Public
Report of: Superintendent of Epping Forest SEF 10/15	For Information

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 2014 to 31 December 2014.

The report shows a 200% increase on last year's figure, a similar level of enforcement of the Epping Forest Byelaws (EFBL) was last recorded during 2010. Both these peaks are mainly as a result of a high level of prosecutions for illegal fungi picking. The period of 2007 to date covers a conscious programme of informal education rather than formal prosecution or warning. This is evidenced by the 7,919 "Advisory conversations" conducted by Forest Keepers during the period under report, an increase of 844, or 12% on the figure of 7,075 reported for 2013.

There were twenty four prosecutions undertaken during the period, eighteen for illegal fungi picking, one each for fly tipping; damaging and disfiguring the Forest; taking a vehicle more than forty five metres from the highway; and for erecting an advertising hording on the Forest.

Two further successful prosecutions were presented for a quad bike being driven on the Forest during which the riders assaulted two Forest Keepers.

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

Your Committee approved, in March 2014, an increase in the level of Court costs and charges for the disposal of fly tips, in line with the three year Retail Price Index (RPI) of 10.01%. It is proposed to increase charges again using the RPI of 1.4%.

Recommendation(s)

Members are asked to:

- Receive this report

- Approve an increase on the current figures for 2015/16, as per Table 5, of 1.4% for court costs (in line with Retail Price Index increase of 1.4%) and 8% for disposal costs (in line with the Government Landfill Tax escalator).

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 2014.

Current Position

3. There have been twenty four prosecutions for byelaw offences during the period under report; eighteen were for a breach of byelaw 3(4) "taking anything from the Forest". One for a breach of the Environmental Protection Act (EPA) 1990 Section 33, fly tipping on Forest land. Further prosecutions were for, a breach of byelaw 3(11) b "driving a vehicle more than 45 meters from the highway", another was for a breach of byelaw 3(5) "damaging or disfiguring trees or other growing things" and one for erecting an advertising hording on Forest land.
4. The remaining two prosecutions were for quad bikes being driven around the Forest. The riders of the quads assaulted two Forest keepers when they were apprehended. In response to the assault the police were called and attended the scene, both defendants were arrested and taken to Harlow Police station, their quad bike was seized and taken to Loughton police station. After name checks were carried out and the ownership of the quad established they were released and collected the quad from Loughton. During the prosecution the two Forest Keepers were awarded compensation by the Court. The incident has been fully reviewed as part of the Forest Keepers incident response training and Counselling has been offered to both staff members. Details of the prosecutions are shown in Table 1.
5. There have been ten warning letters sent for byelaw offences during the period under report; two were for excessive feeding of wildfowl, one was for taking a vehicle onto Forest land, one was for littering and a further warning letter was sent for "offensive use of the Forest"
6. The five remaining warning letters were sent, four for metal detecting without a licence, and one for having a dog not under effective control.
7. The level of byelaw enforcement over the period 2005/2014 is shown in Tables 2 and 3. The tables show a overall downward trend, from 2005/2006, in both the number of prosecutions to 20 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.

8. Prosecutions have averaged 10 per year since 2007. There was a sharp rise in prosecutions in 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. A sharp rise of 200% is also shown for 2014 again as a result of the abundance of fungi on the Forest.
9. 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) Mirroring the rise in prosecutions, Advisory conversations rose by 12% from 7,075 in 2013 to 7,919 for the current reporting period. Details are shown in Table 4.
10. 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.
11. At the meeting of 10 March 2013 your Committee approved a 10%, increase in Court costs requested and the standard fly tipping disposal charge, this was in line with The Office for National Statistics (ONS) Retail Price Index (RPI) for the three years following the last increase in 2011. 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 vehicle used to remove the waste plus the cost per tonne for disposal. The charges are shown in Table 5 below.

Options

12. There are two options available:
 - Costs remain the same as a result of the increase agreed in 2013
 - or, a price rise in line with the RPI of 1.4% for costs and 8% in line with the Government landfill tax escalator, for disposal of fly tips, to be added to the current figures.

Magistrates Court

	2014 Tariff	2015 (proposed Tariff)
Forest Keeper’s initial involvement, reports etc.	£66	£67
Office Administration	£88	£90
Forest Keeper’s Court appearance	£88	£90
Other costs, travel etc.	£22	£23
	£264	£270

Costs requested for disposal of dumped waste (Minimum charge for up to 1 tonne)	£141	£152
+ each additional tonne	£107	£116
Flytipping Reward Scheme	Up to £500	Up to £500

Proposals

13. It is proposed that the Court costs are increased by 1.4% rounded up to the nearest £1. This reflects the annual rise in RPI for 2014 as reported by the ONS. It is further proposed that the cost of disposal for fly tips is increased by 8% again rounded up to the nearest £1 in line with the Government landfill tax escalator, 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.
15. **Open Spaces Department Strategic Aims:** the enforcement activity complies with the strategic aim to provide safe, secure and accessible Open Spaces and services for the benefit of London.

Implications

16. **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.

17. 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%.
18. 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.
19. **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.
20. **HR** - Forest Keepers receive personal safety training together with professional witness and court training to support the enforcement of the Epping Forest byelaws.

Conclusion

21. 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.
22. The level of costs and fly tipping disposal charges requested from the Courts are now reviewed annually and increased in line with the RPI.

Table 1: Epping Forest Byelaw Prosecutions 2013

Byelaw offence(s)	Court	Outcome
Fungi picking x 8 cases	Chelmsford	Fine £130.00 Costs £80.00 Surcharge £20.00
Fungi picking x 2 cases	Chelmsford	Fine £200.00 Costs £80.00 Surcharge £20.00
Fungi picking	Chelmsford	Fine £35.00 Costs £340.00 Surcharge £20.00
Fungi picking x 5 cases	Chelmsford	Fine £120.00 Costs £80.00 Surcharge £20.00
Fungi picking	Chelmsford	Fine £240.00 Costs £80.00 Surcharge £20.00
Fungi picking	Chelmsford	Fine £300.00 Costs £100.00 Surcharge £20.00
Damage to trees and disfiguring the Forest	Colchester	Fine £260.00 Costs £200.00 Surcharge £20.00
Environmental Protection Act 1990. Fly tipping Obstructing a Forest Keeper	Chelmsford	Fine £1000.00EPA Fine £135.00 EFBL Costs £660.00 Surcharge £20.00
Taking a vehicle more than 45 metres. from the highway	Chelmsford	6 months conditional discharge Costs £200.00 Surcharge £20.00
Byelaw 3(10),(11)&(47)	Colchester	Fine £600.00 Costs £260.00 Comp £200.00 Surcharge £60.00
Byelaw 3(10),(11)&(47)	Colchester	Fine £600.00 Costs £260.00 Comp £200.00 Surcharge £60.00
Byelaw 3(21)Erecting or building on Forest land	Barkingside	Fine £200.00 Costs £2341.00 Surcharge £20.00

Table 2: Epping Forest Byelaw Prosecutions:
Years 2005-2014

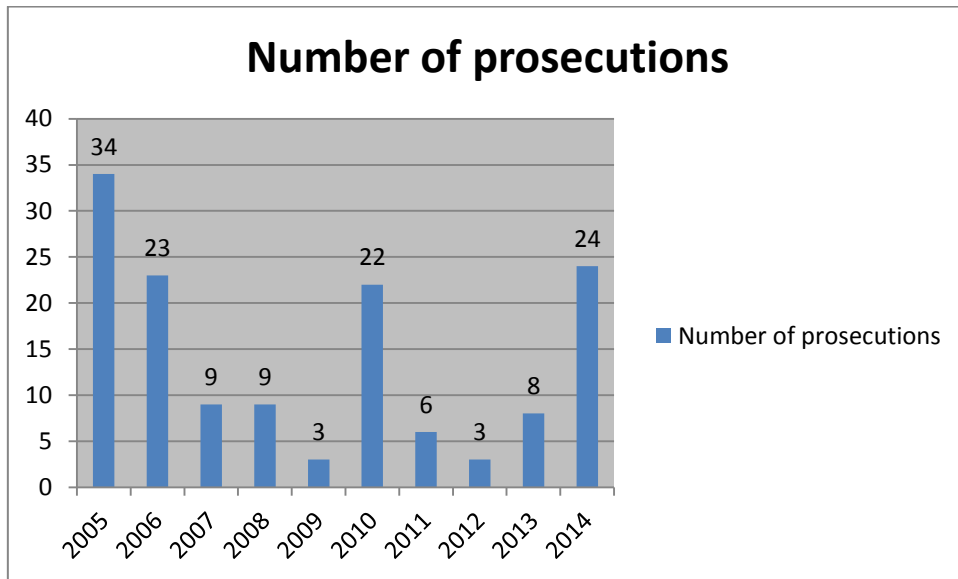


Table 3: Epping Forest Byelaw Warning letters:
Years 2005-2014

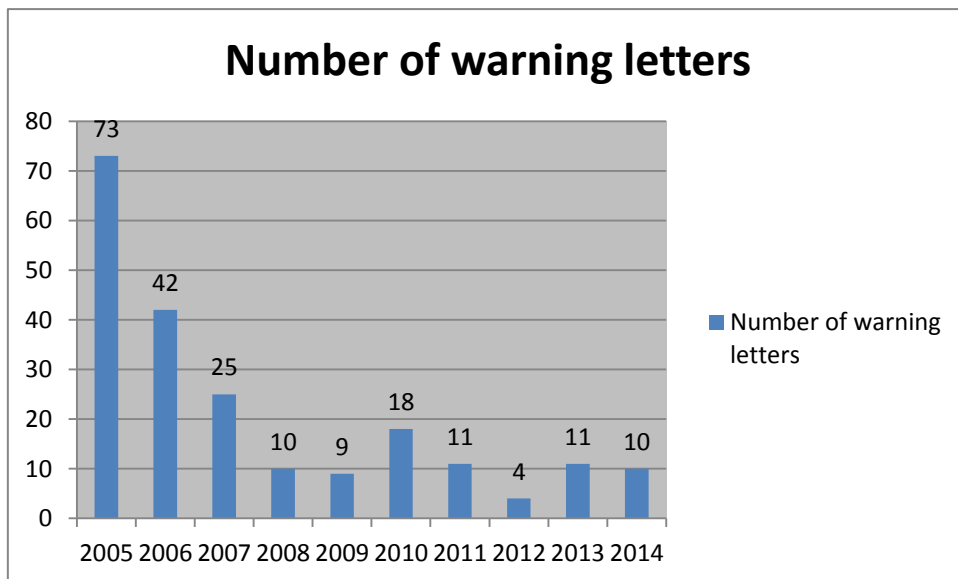


Table 4: Forest Keeper Advisory Conversations

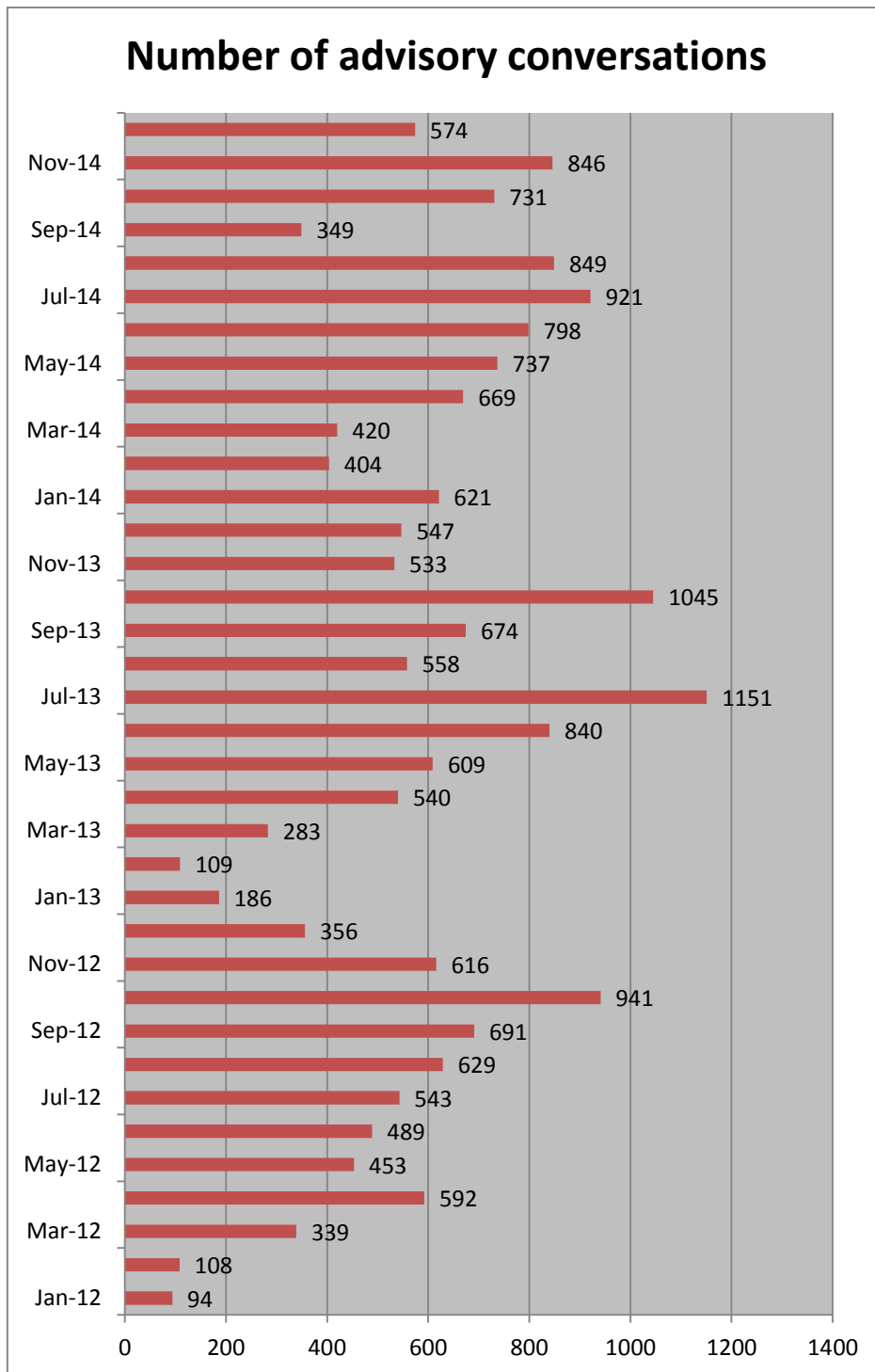


Table 5: Current and proposed 2015 Tariff of “Court Costs” requested at Magistrates Court

	2014 Tariff	2015 (proposed Tariff)
Forest Keeper’s initial involvement, reports etc.	£66	£67
Office Administration	£88	£90
Forest Keeper’s Court appearance	£88	£90
Other costs, travel etc.	£22	£23
	£264	£270
Costs requested for disposal of dumped waste (Minimum charge for up to 1 tonne)	£141	£152
+ each additional tonne	£107	£116
Flytipping Reward Scheme	Up to £500	Up to £500

Background papers

EFCC May 2011 SEF 16/11

EFCC March 2013 SEF 7/13

EFCC March 2014 SEF 7/14

Keith French

Head Forest Keeper, Epping Forest

T: 02085325310

E: keith.french@cityoflondon.gov.uk]