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**DELEGATED POWERS  
SECTION 108, ENVIRONMENT ACT 1995**

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**Responsible Cabinet Member - Councillor Bill Dixon,  
Neighbourhood Services and Community Safety Portfolio**

**Responsible Director - Cliff Brown, Director of Community Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To request a change to the scheme of delegation with regard to powers contained in the Environment Act 1995.

**Summary**

2. To enable Street Scene Enforcement Officers to carry out their role to greater effect it is proposed that powers contained in the Environment Act 1995, Section 108 be delegated to them through the Director of Community Services. These powers will enable Street Scene Enforcement officers to require any individual involved in waste investigations to disclose information to the officer upon request and sign a declaration.
3. Where a person fails to provide information when requested, they are liable to conviction to a fine of up to £5,000 or a term of imprisonment of up to two years or both.

**Recommendation**

4. It is recommended that the scheme of delegation be amended as follows:
  - (a) The following wording will be added to Paragraph 1(a), Section H to the powers of the Director of Corporate Services:

‘With the exception of powers under the Environmental Protection Act 1990 for Section 46 Household Waste Receptacles, Section 47 Commercial Waste Receptacles Non Food, Section 33 Fly Tipping, Section 34 Duty of Care Non Food’.
  - (b) A new paragraph (2) be added to Section P of the Director of Community Services powers as follows:

‘Powers to require individuals to disclose information under Section 108 of the Environment Act specifically for waste related matters under the Environmental Protection Act 1990, Section 46 Household Waste Receptacles, Section 47 Commercial Waste Receptacles Non Food, Section 33 Fly Tipping, Section 34 Duty of Care Non Food’.

## Reasons

- The recommendations are supported to enable the Director of Community Services to delegate powers under Section 108 of the Environment Act to enable Street Scene Enforcement Officers to carry out their enforcement role more effectively.

**Cliff Brown**  
**Director of Community Services**

## Background Papers

No Background papers were used in the preparation of this report.

Ian Thompson : Extension 4446  
CLD

S17 Crime and Disorder	The purpose of this report is to enable Street Scene Enforcement Officers to carry out their enforcement function more effectively when dealing with environmental crime.
Health and Well Being	By tackling environmental crime across the Borough does improve the overall health and well being for residents.
Sustainability	Tackling environmental crime has a positive impact of the sustainability of the Borough.
Diversity	No individual would adversely be affected by the content of this report.
Wards Affected	All Wards will be affected.
Groups Affected	No individual group will be affected adversely by the content of this report.
Budget and Policy Framework	There is no impact on the budget and policy framework.
Key Decision	This is not a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	Environmental crime has a negative impact on the Borough and can adversely affect all themes with the Sustainable Community Strategy.
Efficiency	There is no impact on the Council’s efficiency agenda as a result of this report.

## MAIN REPORT

### Information and Analysis

6. The Environmental Protection Act 1995 Section 108 provides suitable legislation for local authorities to require a person involved in a waste investigation whom they have reasonable cause to believe can provide information to disclose that information to an authorised officer and sign a declaration of the truth.
7. Specific powers are provided within Part 5 of the Act under Miscellaneous, General and Supplementary Provisions. The Environment Act 1995 was specifically written to make further provisions for the control of pollution, conservation of natural resources and the conservation and enhancement of the environment, at the same time, making provisions for imposing obligations on certain persons in respect of certain products and materials including waste. It is the intention that the Street Scene Enforcement Team will utilise these powers simply for gathering essential information to assist in the prosecution of illegally stored, deposited, fly tipped and transferred waste.
8. Whilst Section 108 of the Environment Act 1995 relates to powers of entry, it also enables officers to deal with perpetrators of crime who purposely try to mislead officers or provide no comment when being interviewed under caution. Fly tipping cases are regularly discontinued due to the lack of tangible evidence and exhausted lines of enquiry. A regular defence from a suspect of fly tipping or waste transfer is that a family member or friend had been using their vehicle on the day in question and currently, under existing powers, Street Scene Enforcement Officers cannot require the individual to pass on their details. Delegating Section 108 powers of the Environment Act 1995, this will be no longer possible and the perpetrators must give officers the relevant details.
9. Where a person fails to provide information when requested, they are liable to conviction to a fine up to £5,000 or a term of imprisonment up to two years or both.
10. The powers requested to be delegated to Street Scene Enforcement Officers would support them in being able to enforce existing waste legislation with greater effect, particularly giving greater powers to deal with obstruction and deliberately misleading information.

### Outcome of Consultation

11. Consultation has taken place with other colleagues in the Council who use the powers within the Environment Act 1995.