

Amended MT 29.8.17

Policy on Enforcement of Environmental Crimes

1 Introduction

This policy has been produced to support the Councils' commitments to protect and improve the environment. The Councils believe that:

- Tackling environmental crimes is a priority for local communities in both local authority areas.
- Environmental crimes are unsightly and make our towns, villages and other areas less attractive for residents and visitors alike.
- Environmental crimes can result in negative perceptions of an area and make it feel unsafe and uncared for.
- Maintaining clean neighbourhoods benefits the local economy by improving the image of the area and thereby attracting more visitors and customers, encouraging investment in local businesses, increasing house prices and assisting businesses to retain employees.
- The cost to local residents of clearing up after environmental crime is considerable.
- Waste can take years to degrade and can be costly to remove. It can be harmful to health and, for example, lead to cuts, puncture wounds and subsequent infections for children and others that come into contact with it. Waste can cause harm to wildlife and habitats, and can attract pigeons and vermin such as rats.

The Councils will adopt a triple-track approach to responding to environmental crimes involving:

- **Education** - educating the public, such as through signage, use of warnings, action days and publicity campaigns;
- **Enforcement** – environmental crimes are illegal, which means that enforcement action will be pursued where necessary and appropriate; and

- **Cleansing** – the councils carry out routine programmes of cleansing adopted highways and other public spaces, such as parks and play areas. These are supplemented by responsive action to reported problems and extra sweeping when needed (for instance in busy visitor areas or after major events).

The purpose of the policy is to set out the Councils' approaches to education and enforcement in relation to environmental crime. It is intended to ensure that each Council follows a standard approach and, in particular, that the approach to enforcement of environmental crimes is consistent, balanced, fair, transparent and proportional.

The policy recognises that each incident of environmental crime is unique and must be considered on its own merits but sets out the general principles that will be applied by the Council's officers.

This document should be read in conjunction with the Councils' General Policy Statements on Enforcement and any specific policies on individual environmental crimes.

2 What is Environmental Crime?

Environmental crime is generally used to describe any illegal activity that harms the environment¹ but there is no universally agreed definition. In the broadest sense, it includes waste crime and activities such as wildlife crime, illegal resource extraction, and fraud around sustainability and carbon trading permits. In addition to environmental impacts, it can also have serious human health and social impacts.

High Peak Borough Council and Staffordshire Moorlands District Council have adopted a pragmatic approach to defining environmental crime based upon their remit and concerns of residents. The Council defines environmental crime as encompassing:

- Abandoning vehicles;
- Dog fouling;
- Fly-posting;
- Fly-tipping;²

¹ Parliamentary Office of Science and Technology (2017).

² ss 33 and 34 Environmental Protection Act 1990.

- Graffiti; and
- Littering.

Table 1 shows the number of each environmental crime type reported to the Council over the past three financial years.

Table 1 Levels of Environmental Crime

	High Peak			Staffordshire Moorland		
	2014/15	2015/16	2016/17	2014/15	2015/16	2016/17
Abandoned Vehicle	88	182	267	51	128	201
Dog Fouling	366	323	282	289	280	215
Fly-posting	17	17	11	5	10	15
Flytipping	521	567	567	503	558	526
Graffiti	9	14	24	14	29	14
Request for Street Cleaning	657	556	622	498	531	501

4. The Councils' Approach to Education

The Council believes that education plays an important role in tackling environmental crime. It encompasses the whole range of ways in which the Council communicates about environmental crime from large scale media campaigns to the use of small-scale messages. Messages may be aimed broadly at raising general awareness, or targeted at specific groups of people such as students, drivers, consumers of food on-the-go, etc.

The Council has taken part in a number of national campaigns in recent years, such as those delivered by Keep Britain Tidy, and will continue to look for opportunities to support such campaigns locally.

The Council will also use small-scale messages to respond to locally identified problems. For example, the Council has developed the Dog Watch Campaign, which consists of signage, postcards for delivery to people's homes, banners, and materials to use in schools. Typically the campaign is run in a small, targeted area for a period of 3-4 weeks before being moved into another area to maximise impact.

In addition to the Dog Watch Campaign material, the Council has developed various other signs, such as relating to littering from vehicles, which can be used to respond to environmental crimes. The Council will continue this approach to respond to specific problems and will develop further bespoke material as needed.

Historically, the Council has co-ordinated multi-agency clear-up days that have been primarily led by the Community Safety team, but which have often had a strong environmental focus. These have gone by various names such as action days/weeks and beat sweeps. A key element has been engaging local communities in litter picks and other environmental improvements. Street Scene has also assisted local community groups that wish to carry out their own clean-ups by providing litter picks and collecting bagged waste afterwards.

The Council will continue to use this approach to target action in hot spot areas that require more intensive action.

5 The Council's Approach to Enforcement

Experience has shown that enforcement action is most effective where it is targeted in the right places at the right times, and carried out by suitably equipped officers with the capacity and appropriate training to undertake enforcement activity.

Enforcement activity, particularly the issuing of fixed penalty notices face-to-face, can often lead to confrontational situations. It can be difficult for officers to apply council policies in a consistent and appropriate manner if they are not involved in enforcement action on a regular basis and not all council officers have the necessary temperament for enforcement activity. The Council also recognises that the safety of officers is paramount.

For these reasons, enforcement activity will primarily be carried out by the Councils':

- Environment Enforcement Officers; and
- The Geographic and Specialist Service Supervisors for Street Cleaning, Parks and Waste.

Each officer will be allocated with a body-worn video camera for use when carrying out enforcement activity. This will be switched on, where possible, as soon as the officers suspect an offence has been committed, or is about to be committed, and will be kept on until the interaction has ended. For the avoidance of doubt, the lack of

a body worn video camera, or failure to record on a particular occasion, would not preclude the council from pursuing enforcement action if there is sufficient evidence and it is in the public interest to do so. The cameras are intended to both assist with evidence gathering but also to protect the officer from physical or verbal abuse and can be used in the event of complaints against an officer.

Other Council officers, particularly operational officers working in the community, will be expected to provide intelligence to enable enforcement activity to be effectively targeted. This could include providing evidence of people discarding litter from vehicles. A webform has been developed to allow officers to report information.

Street Scene currently provides the initial response to reports of fly-tipping. Officers examine the fly-tipping for any evidence and, where such evidence exists, record the information and then pass it to the Environment Enforcement Officers to take forward. This arrangement will continue following formation of Alliance Environmental Services (AES).

Operational Service staff members will also be expected to assist the Council to respond to reports of abandoned vehicles by checking whether vehicles remain in the reported location and providing descriptions and photographs of reported vehicles when requested to do so by the Environment Enforcement Officers.

Targeting Activity

It is important that enforcement activity is targeted in those areas where environmental crimes are occurring. The council keeps records of problems reported by members of the public and these can be analysed to produce maps of problem areas. Information about 'hot spot' areas can also be provided by councillors and frontline council workers.

It is proposed that hot spot maps of reported environmental crimes be produced on a quarterly basis to help guide activity.

The work of the enforcement officers should assist the Council's Street Scene Service (AES) to keep our neighbourhoods clean by focussing on priority areas and thus reducing the need for cleansing. The Geographic and Specialist Service Supervisors will provide a monthly briefing highlighting areas for the enforcement officers to prioritise.

Response

Officers will normally issue a fixed penalty notice where an offence of abandoning a vehicle, littering, fly-tipping, fly-posting or dog fouling has occurred (Appendix A)..

The Council may also consider recovering the cost of removal. This reflects the zero tolerance approach being taken by each Council to tackle environmental crimes. The FPN is issued as an alternative to the person being prosecuted through the courts. If an FPN is issued then the offender has 14 days to discharge their full liability for the offence by paying the FPN. The Council will normally seek to prosecute if someone fails to pay the FPN within the specified timescale.

Where the defacement of an area by waste is detrimental to the amenity of the locality then this would normally be dealt with through a Community Protection Notice or under Section 215 of the Town and Country Planning Act 1990. This includes areas where there is recurrent defacement by litter of open land in the vicinity of commercial or retail premises. A breach of a Community Protection Notice may result in either a fixed penalty notice being issued or prosecution. Failure to comply with a Section 215 Notice is an offence and would be dealt with by means of a prosecution.

If a person fails to comply with a Community Protection Notice then the authority also has the power to apply to court for seizure or forfeiture of items used in commission of the offence.

There are a number of situations when the Council would consider that the issuing of a fixed penalty notice may not be appropriate and instead would seek to prosecute under the relevant legislation. This includes:

- Large-scale depositing of waste items, which will normally be dealt with by means of prosecution for littering (Section 87 Environmental Protection Act 1990), fly-tipping (Section 33 Environmental Protection Act) or failure to keep proper control of controlled waste (Section 34);
- When the offence is committed by someone that has previously received a fixed penalty notice for the same offence; and
- Where the offender is aggressive to the Enforcement Officer (or other staff member) and/or refuses to provide their name and address.

Payment by Instalments

A number of local authorities offer the option of payment by instalments in cases where the individual would find it difficult to pay the full amount of the fixed penalty within the required 14 day time period. According to DEFRA guidance on fixed penalty notices, such approaches can assist in improving payment rates. The Council has given permission to pay instalments on a case-by-case basis but has lacked a clear policy on this matter.

It is suggested that the Council adopts a formal approach to payment by instalments, in the interests of fairness and consistency, with the aim of both assisting those whose circumstances would make it difficult for them to pay the full amount within 14 days and also as a means of improving payment rates.

Payment by instalments will be offered if requested by the alleged offender and provided that they can adequately demonstrate to the authority that one or more of the following criteria applies:

- A fixed penalty notice has been issued to a young person (aged under 18);
- The alleged offender is on benefits; and
- There is a proven case of financial hardship.

The law in relation to prosecuting summary offences in the magistrates' court means that an authority has six months from the date of an offence within which to commence proceedings by laying information in the court. If it fails to do this within the six-month period, then prosecution, following non-payment of a fixed penalty notice, cannot be taken. It is, therefore, recommended that instalment payments be spread over a maximum of three months to retain the option of prosecuting for the offence if the alleged offender fails to pay all instalments.

If the offender pays the initial instalment but then fails to pay one or more of the subsequent instalments then the local authority would normally seek to prosecute the individual for the original offence.

The instalment amounts are set out in Appendix B.

Young People

The Councils recognise that all sections of society can be responsible for littering and that the age of criminal responsibility in England is 10. The Councils also recognise that littering can be a particular problem around schools and along routes to school premises.

If the Councils intend to carry out targeted enforcement activity close to a school in response to reported problems, then they will endeavour to undertake an education initiative at the school prior to enforcement patrols taking place. The Councils, however, recognise that there may be occasions where an enforcement officer observes a young person aged 17 or under littering during the course of their normal duties and not as part of targeted action.

The Councils think that it is important that officers respond to littering by young people and send out the message that littering is unacceptable and will not be tolerated. If the Council does not take action in such circumstances then it may be seen to be: i) giving out the wrong message and suggesting that the law does not apply to young people, and ii) not adequately responding to public concern about littering. Officers will, therefore, issue fixed penalty fines to anyone aged 11 or over (corresponding to secondary school age) who is found to commit an offence or prosecute as described above.

The Councils will, however, in appropriate cases seek to provide an alternative to paying a fixed penalty for those aged 16 or under at the time of the offence. A fixed penalty notice will be initially issued but will be cancelled, and the Council would not take any further action in relation to the offence, if the offender attends and completes a one hour educational session arranged by the Council. Such sessions will normally be offered once a month on a week-day evening at one of the Councils' main offices. Offenders will not be provided with a choice of sessions but would be expected to attend the next available session. If the offender does not attend the session then the fixed penalty notice will stand and the individual may face prosecution if the penalty is not paid within the specified timescales.

Appendix A Fixed Penalty Notice Penalties

Offence	Legislation	Penalty		
		if paid within 10 days	Full	Maximum on conviction
Abandoning a vehicle	s 2(1)(a) / 2A Refuse Disposal Amenity Act 1978	£150	£200	£2,500
Criminal Damage/flyposting	S1 Criminal Damage Act 1971/ s131 / 132 Highways Act 1990 / s224 Town and Country Planning Act 1990 and s 43/ 44 Anti-Social Behaviour Act 2003	£50	£75	£2,500
Failure to comply with a Community Protection Notice	S 48/52 Anti-Social Behaviour, Crime and Policing Act 2014	£75	£100	£2,500 for an individual £20,000, in the case of a body
Failure to comply with a Public Spaces Protection Order	S 67/68 Anti-Social Behaviour, Crime and Policing Act 2014	£75	£100	£1,000
Unlawful repairs / sale of vehicle on roads	s 3/4/6(1) Clean Neighbourhoods and Environment Act 2005	£75	£100	£2,500
Depositing litter	s 87/88 Environmental Protection Act 1990	£50	£75	£2,500
Unauthorised distribution of free printed matter	Schedule 3A	£50	£75	£2,500
Failure to produce authority (waste carrier's licence)	s 5/5B Control of 1989 Pollution (Amendment) Act 1989	£300	Amount fixed at £300	£5,000
Failure to furnish documentation	S 34(5) / 34A Environmental	£300	Amount fixed at	£5,000

(waste transfer notes)	Protection Act 1990 and regulation 35(6) Waste (England and Wales) Regulations 2011		£300	
Failure to remove dog faeces from land forthwith	s 59 Clean Neighbourhoods and Environment Act 2005	£60	£80	£1,000
Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer	s 59 Clean Neighbourhoods and Environment Act 2005	£60	£80	£1,000
Permitting a dog to enter land from which dogs are excluded	s 59 Clean Neighbourhoods and Environment Act 2005	£60	£80	£1,000
Not keeping a dog on a lead in a designated area	s 59 Clean Neighbourhoods and Environment Act 2005	£60	£80	£1,000

Appendix B: Payment by Instalments

Offence	Fine	Monthly Instalments		
		1 st	2 nd	3 rd
Unlawful repairs / sale of vehicles on roads	£100	£40	£30	£30
Abandoning a vehicle	£200	£75	£75	£50
Depositing litter	£75	£25	£25	£25
Failure to comply with a street litter control notice	£100	Not applicable		
Failure to comply with a community protection notice	£100	£40	£30	£30
Failure to comply with a community protection notice	£100	£40	£30	£30
Unauthorised distribution of free printed matter	£75	£25	£25	£25
Criminal Damage and fly-posting	£75	£25	£25	£25
Failure to produce authority (waste carrier's licence)	£300	Not applicable		
Failure to furnish documentation (waste transfer notes)	£300	Not applicable		
Failure to remove dog faeces from land forthwith	£80	£30	£25	£25
Not putting, and keeping, a dog on a	£80	£30	£25	£25

lead when directed to do so by an authorised officer				
Permitting a dog to enter land from which dogs are excluded	£80	£30	£25	£25
Not keeping a dog on a lead in a designated area	£80	£30	£25	£25