



East Cambridgeshire  
District Council

# **Environmental Crime Enforcement Policy**

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**Written by Senior Environmental Health Officer (Domestic Team)**

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## 1. Introduction

Environmental problems such as fly tipping, litter, abandoned vehicles, dog fouling and the burning of waste can seriously blight an area.

East Cambridgeshire District Council is committed to ensuring that we maintain the local environment to a high standard by keeping the streets and green spaces clean and free of waste, litter, abandoned vehicles and graffiti and effectively deliver our regulatory functions in order to protect the environment and help enhance the quality of life in local neighbourhoods.

The Clean Neighbourhoods and Environment Act (CNEA) 2005 and the Anti-Social Behaviour (ASB), Crime and Policing Act 2014 introduced new powers to enable councils to deal more effectively with environmental crime and other local environmental quality issues. The acts place an emphasis on the role of targeted and effective enforcement as an important tool in any council's armoury when dealing with environmental quality problems.

East Cambridgeshire District Council is committed to the principles laid out in the government's Enforcement Concordat and the Regulators Compliance Code.

This means that we will aim to help people to comply with their responsibilities through information, education and advice about what is expected of them and how they should be behaving, but will not hesitate to take enforcement action against those who do not take note of the guidance or who wilfully spoil our environment.

This strategy lays out how we propose to use the range of enforcement options available to help achieve our aims, which are:

- improved quality of the natural and built environment
- a more pleasant place to live, visit and work
- reduced fear of crime
- greater awareness of local environmental quality issues across the district
- improved understanding by residents and businesses of their responsibilities in relation to the waste that they produce, and the offences that they might commit; also, how East Cambridgeshire District Council will deal with them if they offend
- the establishment of clear and appropriate policies and practices to achieve the above objectives

## 2. Priority areas

While all of the issues that will be highlighted in the following pages are important and can have an effect on the overall environmental quality of the district, certain aspects will need to take priority over others taking into account:

- severity and scale of the problem
- risk to public health
- risk of environmental harm
- trends and patterns of offences
- public opinion
- the needs of the public, businesses and other organisations based in the district
- the needs of our statutory partners and stakeholders
- government directives

Issues addressed by this policy include the following offences.



### Fly tipping waste offences

Fly tipping is the illegal deposit of any waste onto land that does not have a licence to accept it. Fly tip investigations may not always identify the actual fly tip offender but do reveal associated offences such as 'duty of care' offences. For example, persons paying unregistered individuals (often termed 'a man with a van') to dispose of their bulky household waste that is subsequently fly tipped.

The Council takes a rigorous approach to fly tipping and looks to prosecute fly tippers and other offenders for associated offences. We investigate fly tips on both private and public land. We only clear fly tips from public land though.

### Waste presentation offences

Typical offences are when businesses or households do not take reasonable care over waste produced at their premises. For example, the abuse of household waste collection and disposal facilities by businesses and tradesmen or householders putting waste out too soon for collection.

### Street scene offences

Litter, dog fouling, abandoned vehicles, graffiti, fly posting and the use of advertising boards on the street are all offences that come in to this category.

If an offence is witnessed by an officer for example dropping litter or failing to pick up after a dog, it can be dealt with instantly by issuing a fixed penalty notice (FPN). If the remedy is not instant, for example, the offence is reported by a witness, then subsequent enquiries will take place and appropriate enforcement action taken.

There is a district wide Public Space Protection Order (PSPO) in force under the Anti-Social Behaviour (ASB) Crime and Policing Act 2014, which applies to all public spaces including those where payment to enter is made or permission to access them is implied or expressly permitted. The PSPO creates an offence when a dog fouls and the person in charge fails to clean up after their dog. This can be dealt with by an FPN or prosecution.

### Other offences relating to environmental crime caused by anti-social behaviour

These offences are where the behaviour of a person or a business is having a detrimental effect on the quality of life for other people in the district, by affecting the community or local environment, and the behaviour is persistent and continuing.

The type of behaviour can be wide ranging. For example, waste accumulations in a person's garden, unreasonable security lighting affecting others in the vicinity, burning of material

such as plastics, treated wood, oil based materials. Such materials release chemicals, which can cause harm or pollution of the environment.

In some instances, the behaviour may be such that officers consider a statutory nuisance is being caused. In such cases the council is required to serve an abatement notice to require the cessation of the nuisance. If not deemed a statutory nuisance but the behaviour does have a negative effect on the local community, a Community Protection Notice (CPN) can be issued. The notice will require the behaviour to stop and if necessary reasonable steps to be taken to remove the impact, for example to require a change to the angle of security lights or to require the lawful clearance and disposal of waste material.

In some instances, there may be an associated impact from the ASB, for example, a problem with vermin as a result of a waste accumulation. In such cases, the council will review the most appropriate legislation under which to act.

Although covering many scenarios, this document does not provide a definitive list of actions and behaviours that can be described as environmental crime offences under which officers are authorised to act. In addition, changes may be required with the adoption of new or updated legislation and/or guidance. The council reserves the right to address environmental matters not expressly referenced in this document where applicable. However, the principles of enforcement remain the same.



### 3. Our approach - how do we intend to enforce?

The councils' approach is based on government guidance, the council's Enforcement Protocol and examples of best practice.

This guidance has been used to inform a balanced approach of education, encouragement and enforcement measures to help achieve our aims.

Principles of good enforcement require that we:

- treat people in a courteous and respectful manner
- treat all people fairly and equitably in accordance with the Equalities Act
- ensure that responses are in proportion to the seriousness of the issue
- where possible, achieve our aims through education and awareness raising to avoid the need for enforcement action
- respond to reported incidents promptly
- be open and transparent in our approach, and provide information on services and protocols when asked to do so;
- gain community support and assistance with our actions
- deter offences through provision of information on the issues around environmental crime, warning signs and publicising successful enforcement actions where considered appropriate to do so
- work with partner organisations where considered appropriate and beneficial to do so
- use body worn CCTV and deployable CCTV when required, in compliance

with the relevant legislation including the Data Protection Act 1998, the Human Rights Act 1998 and the ICO CCTV Code of Practice, to ensure a consistent and effective system is adopted

- only use covert surveillance equipment to gather evidence for prosecution in relation to serious offences in accordance with government guidelines and requirements of The Regulation of Investigatory Powers Act (RIPA) 2000
- take firm action against those who wilfully disregard the law or are obstructive during investigations
- where the law requires, to have a robust appeal process to allow a fair hearing against an allegation made

## 4. Enforcement options

The council has a range of powers and enforcement options to help it deal with environmental crime. The following are the main enforcement options that will be used, although some additional powers are available in relation to specific issues.

### No further action

When an investigation reveals insufficient evidence, legislation precludes prosecution. In addition, when a matter is not in the public interest to proceed, no further action will be taken. The council will be transparent in its decision making and formally record this.

### Advice

#### Inform and educate

East Cambridgeshire District Council will provide clear information and guidelines on individual responsibility via its website, policies, publicity campaigns and so on. We will seek to help individuals and businesses to comply with their legal obligations. The expectation is that residents and businesses act on advice provided. Failure to do so will result in more formal action being taken.

#### Warnings

These can be verbal or written and may be used to reinforce advice and guidance where minor breaches of the law have been identified but where it is not considered appropriate to take formal action. The warning may include a requirement to take steps to rectify a situation. Follow up visits to assess for compliance will be undertaken.

### Formal action

#### Legal notice

Some legislation provides for the service of notices requiring a person, business or organisation to comply with legal guidelines. The notice will explain what is wrong, what is required to put things right, the timescale by which to do this and what will happen if the notice is not complied with. There may be a right of appeal against certain notices. If there is a right of appeal, information will be provided on how to do this.

#### Fixed Penalty Notice (FPN)

FPN's are available in relation to a number of offences. By accepting an FPN, the offender accepts responsibility for the offence and discharges the responsibility to attend court. Failure to pay an FPN may result in prosecution for the original offence where the matter is criminal, or, recovery as a debt where the matter is civil.

The table in Appendix E details the levels of fixed penalties for environmental offences. These may be subject to change in response to future government guidance. Any changes to fixed penalty levels will be published on the council website.

#### Simple caution

Under certain circumstances, a simple caution may be used as an alternative to prosecution. This is a serious matter and will be recorded. An offender having admitted an offence is formally cautioned by an appropriately authorised officer. The offender receives a written record of the caution, which is kept on record for a period of 5 years. If the offender commits

any further related offences during this period the caution can be considered when deciding on enforcement action to be taken, and can be considered during sentencing if court action is taken.

#### Prosecution

Prosecution action is normally taken for more serious offences. Such action can send out a clear message to others whom may be considering committing an offence. It requires the preparation of a case that is presented at a Magistrates Court, or in some instances the Crown Court.

#### Criminal Behaviour Orders (CBO)

The council can apply to the court for imposition of a CBO in the case of repeat offenders where other enforcement options have failed to stop re-offending. A CBO can make requirements of a person as well as imposing prohibitions.

#### Seizure of items

The council can apply to the court for a warrant to enter a premise and seize items of equipment either causing a nuisance (for example, stereo equipment) or as a result of a successful prosecution for breach of a CPN. Forfeiture of the items can be awarded by the court.

#### Stop and Search

Any person collecting waste as part of their business must be registered as a waste carrier with The Environment Agency. The council can inspect associated documentation and issue FPN's where not produced.

#### Power to enter and require details

In pursuance of evidence to prosecute an offence, the council has powers to enter land, seize evidence and require name and address details of offenders. Failure to provide or provision of false details is an offence.



## 5. Applying enforcement options

When deciding which enforcement option to apply, a number of factors need to be considered, including:

- the seriousness of the offence
- previous conduct of the offender
- likelihood to re-offend
- impact of the offence on others

In certain circumstances outlined below, further consideration will be given to the appropriate action that should be taken in relation to an offence.

### Dealing with vulnerable people

It is recognised that normal enforcement procedures are not appropriate in all circumstances, and that individual circumstances must be considered when deciding on appropriate action.

### Approach to juveniles

In line with government guidance and examples of best practice, the council will not take formal enforcement action against juveniles below the age of 16 years except in exceptional circumstances.

### Appeals

An appeal process is available for a range of formal notices that officers are authorised to serve and also for fixed penalties issued in relation to breaches of the householder duty of care and for breaching a section 46 notice under the Environmental Protection Act (EPA) 1990. All other matters, if dealt with by fixed penalty, can only be challenged by electing to have the matter heard at court.



## 6. Working with partners

Working with other departments in the council, as well as external organisations is a vital part of any enforcement strategy. It is important that all interested parties are kept informed of proposals and actions being considered thereby providing the opportunity for partnership working to tackle what are often complex and wide-ranging issues.

### Planned approach

Where it is practical and beneficial to help deliver the aims of this strategy, we will work jointly with other council departments and external organisations, using the most appropriate enforcement tools available.

Where government guidance recommends that we should try a partnership approach to tackling issues before taking enforcement action, we will always seek to do this.

When considered appropriate to do so, the council will request courts to consider the option for offenders to undertake community payback if convicted for an environmental crime offence.

### Identified partners

The following is a list of potential partners that have been identified for the delivery of aims included within this strategy.

#### Internal partners

- Community Safety Partnership
- Legal Services
- Planning and Planning Enforcement
- East Cambs Street Scene
- Anglia Revenues Partnership

#### External partners

- Cambridgeshire County Council
- Cambridgeshire Police
- Cambridgeshire Countryside Watch
- The Environment Agency
- Cambridge Fire and Rescue Service
- Neighbourhood Watch groups
- parish, town and city councils
- registered social landlords
- community groups
- Driver and Vehicle Licensing Agency



## 7. Who to contact and how

The officers who carry out the investigations and enforcement of environmental crime offences are authorised in writing in accordance with the council's scheme of delegation.

The council will ensure that its officers are suitably qualified, experienced, and competent with respect to the enforcement duties that they have been authorised to carry out, and that they receive ongoing training relevant to their enforcement role.

If you would like further information or to report a suspected environmental crime incident, please

- review our webpages on [www.eastcambs.gov.uk/content/envirocrime](http://www.eastcambs.gov.uk/content/envirocrime)
- email the team at [envirocrime@eastcambs.gov.uk](mailto:envirocrime@eastcambs.gov.uk)
- call us on 01353 665555
- write to us at Environmental Crime, Domestic Team Environmental Services, East Cambridgeshire District Council, Nutholt Lane, Ely, Cambridgeshire CB7 4EE



## 8. Reviewing this policy

The Environmental Crime Enforcement Policy 2023 will be reviewed every 3 years (or earlier if changes to legislation demand a change to policy) and published on the council website.

Plan owner: Karen See, Senior Environmental Health Officer (Domestic Team).

Last reviewed: July 2023.

Next review: July 2026.

## Appendix A - fly tipping offences

Dumping waste illegally (or ‘fly tipping’) can seriously degrade any area. The problem can vary in scale from a couple of rubbish bags dumped on the street to several tonnes of commercial waste tipped down a quiet lane or drove. Apart from spoiling the appearance of an area and creating a risk to people and wildlife, fly tipping places a substantial drain on council finances.

### Examples of the powers available:

- Section 33 of the Environmental Protection Act (EPA) 1990 makes it an offence for any person or business to deposit waste anywhere other than a licensed waste facility; persons or businesses found to be fly tipping can receive an unlimited fine and/or imprisonment; the offence is triable either way, placing it in the family of serious offences
- Section 33A of the EPA 1990 allows the courts to order a person or company who has been found guilty of fly tipping to pay for the costs of the investigation and enforcement actions, including any costs linked to the seizing of a suspect vehicle
- Section 33B of the EPA 1990 allows the courts to order a person or company who has been found guilty of fly tipping to pay for the cost of cleaning up waste that they fly tipped
- Section 33C of the EPA 1990 allows the courts in certain cases to seize a vehicle that has been used for fly tipping and pass it to the council
- Section 34B of the EPA 1990 gives the council the power to search and/or seize any vehicle involved or suspected of being involved in fly tipping

- Section 146 of the Powers of Criminal Courts (Sentencing) Act 2000 allows the court to disqualify a person convicted of fly tipping from driving for such periods as they see fit

### Planned approach

East Cambridgeshire District Council considers fly tipping to be a serious offence and will offer an FPN to, or immediately prosecute any person or company involved where it is in the public interest to do so.

A Community Protection Notice (CPN) under the Antisocial Behaviour Crime and Policing Act 2014 may also be issued. This may require the waste to be removed by the person responsible and to provide documentation showing its correct transport and disposal. Failure to carry out such a recommendation may result in either an FPN being issued or a prosecution. A notice such as this will be considered and employed alongside other available enforcement resolutions such as an FPN for the tip itself, a penalty for failing to produce waste transfer documentation for business or a breach of the householder waste duty of care. Where a prosecution is undertaken, we will apply to the courts for the recovery of our investigation and any clean-up costs.

In certain cases, we will apply to the courts to have driving licences revoked and vehicles seized from people or companies convicted of fly tipping who we feel may re-offend. We may also apply for a Criminal Behaviour Order (CBO) if we feel this is appropriate.

We will take part in joint operations with other agencies to target unlicensed waste carriers, and traders who are unable to demonstrate legal disposal of their waste.

We will also produce information warning of the consequences of being caught fly

tipping, Duty of Care responsibilities for household and commercial waste, and information on how to dispose of waste legally.

Officers have appropriate training which enables them to use their discretion in their enforcement recommendations.

Any recommendation to serve a formal notice is reviewed by a senior officer before progressing.

Any recommendation to proceed to court for prosecution is reviewed by a senior officer and the service lead, prior to final decision being made by the Legal team.

## Appendix B - waste presentation offences

East Cambridgeshire District Council (as the Waste Collection Authority) has a statutory duty imposed by Section 45 of the EPA 1990 to provide a collection service for household waste and to provide a commercial waste collection service to any business that requests it from us, who shall then be liable to pay a reasonable charge for the collection and disposal of the waste; and it shall be the duty of the authority to recover the charge unless in the case of a charge in respect of commercial waste the authority considers it inappropriate to do so.

At the present time, the two areas of concern are:

- traders and businesses passing off commercial waste as domestic waste to avoid paying collection and disposal charges
- households not following the council's instructions about the proper use of waste collection services, for example, putting out bags of refuse too early

Taking enforcement action will help to reduce litter problems due to incorrectly presented household waste, and ensure that businesses put in place arrangements for the safe storage, carriage and disposal of their waste.

### Examples of the powers available:

- Section 46 of the EPA 1990 allows the council to serve a notice on an occupier requiring them, amongst other things, to separate their waste for recycling and/or to put out their refuse at specific times and/or in containers we supply; if this notice is not complied with, then the council can issue an FPN which if unpaid may result in the amount outstanding being pursued as an unpaid debt
- Section 1 of the Control of Pollution (Amendment) Act 1989 makes it an offence for any individual or company who is not a Registered Waste Carrier to move waste from one place to another for profit; if the council finds any individual or company doing this we can either prosecute or issue an FPN, which, if unpaid may result in prosecution for the original offence
- Section 34 of the EPA 1990 and The Environmental Protection (Duty of Care) Regulations 1991 places a Duty of Care on all holders of waste; this means, amongst other things, that
  - » anyone who passes waste to another person (apart from householders putting waste out for a normal council refuse collection) must be sure that the person who is taking the waste is a Registered Waste Carrier
  - » where the transfer of waste is anything other than the transfer of household waste produced by the occupier of a domestic property both parties must have a copy of a Waste Transfer Note (WTN) that describes, amongst other things, the type of waste that is being moved and the names of both parties
  - » both parties must ensure they can produce a valid WTN when requested by a Waste Regulation Authority (such as the council or the Environment Agency)
  - » companies or persons who are found to be in breach of these regulations may be prosecuted or issued with an FPN which if unpaid may result in prosecution for the original offence

- » householders similarly must ensure that any company or person they pay to remove waste for them is a registered waste carrier; persons who are found to be in breach of these regulations may be issued with an FPN or may be prosecuted
- Section 34.B of the EPA 1990 will allow the council to seize and impound any vehicle it suspects of being used for the illegal movement of waste and waste duty of care breaches

### Planned approach

We will produce literature to make individuals and businesses aware of their responsibilities and outlining what actions we will take against offenders.

We will use the full range of powers available to us to deal with the illegal movement of waste and any waste duty of care breaches. Where waste has been found to have been illegally deposited, we will offer a fixed penalty where records of the transfer are not available for businesses and similarly for households where the waste carrier is unknown, although a prosecution will be preferred in both instances where it is in the public interest to do so.

Where it is suspected that commercial premises do not have suitable waste arrangements in place, inspections will be carried out. If the required waste transfer documentation is not produced within a specified period an FPN will be issued. If the FPN is not paid, or further offences are committed, this may result in a prosecution.

People or companies involved in the illegal movement of waste risk having their vehicles seized and receiving an FPN or being prosecuted.

Repeat offences or failure to pay the FPN may result in prosecution.

Householders who do not comply with the council's instructions for storing, separating or presenting waste for collection will initially be provided with advice and may be served with a Section 46 Notice. This places a legal requirement on them to follow instructions regarding the separation and presentation of waste for collection. If a notice is breached, an FPN may be issued. If the FPN is not paid, this may be pursued as a debt.

In instances where either businesses or households allow wastes to accumulate to the extent that it has a detrimental effect on the quality of life for those in the neighbourhood that is persistent and unreasonable, a CPN will be considered. Failing to carry out the requirements of such a notice may result in an FPN being issued or a prosecution for the breach or for clearance costs to be charged back to the person or organisation issued with the notice.

Officers have appropriate training which enables them to use their discretion in their enforcement recommendations.

Any recommendation to serve a formal notice is reviewed by a senior officer before progressing.

Any recommendation to proceed to court for prosecution is reviewed by a senior officer and the service lead, prior to final decision being made by the Legal team.

## Appendix C - street scene offences

Litter, abandoned vehicles, fly posting, graffiti, dog fouling etc are all offences that come into this category.

East Cambridgeshire District Council intends to use the full range of powers available to deal with the range of street scene offences in the district.

In addition, we intend to promote responsible behaviour through information and publicity campaigns aimed at residents and businesses. These will highlight the problems caused by littering, abandoned vehicles, fly posting, graffiti, dog fouling etc and actions that will be taken against offenders.

### Examples of the powers available:

- Section 87 of the EPA 1990 makes it an offence to drop or throw or otherwise deposit any litter onto land, the highway or a watercourse
- Section 88 of the EPA 1990 gives the council the power to issue any individual caught littering with an FPN which if unpaid may result in prosecution for the original offence
- Section 2 of the Refuse Disposal Amenity Act 1978 makes it an offence to abandon a vehicle on any land (public or private); persons found guilty of this offence can be prosecuted or issued with a FPN which if unpaid may result in prosecution for the original offence
- Section 3 and 4 of the Refuse Disposal Amenity Act 1978 places a duty of care on the council to remove any vehicle it suspects of being abandoned in its area, hold it for seven days and then destroy, or in the case of vehicle being in reasonable condition, sell the vehicle if it remains unclaimed

- Section 5 of the Refuse Disposal Amenity Act 1978 allows us to recover our costs from the owner or registered keeper of the vehicle

- Section 94B and Schedule 3A of the EPA 1990 gives the Council powers to control the on-street distribution of free printed materials (such as leaflets and flyers) in areas where this has caused a litter problem; people or businesses found to be distributing these sort of materials without the council's permission can be prosecuted or issued with an FPN, which if unpaid may result in prosecution for the original offence

- Section 43 of the Anti-Social Behaviour Act 2003 allows an authorised officer to issue an FPN to anyone found in the act of a graffiti offence; the decision to issue an FPN will be based on the judgement of the officer who witnesses the event and their decision will be dependent on the scale and location of the defacement; it must be noted, however, that as a general rule all but the most minor of graffiti offences will be reported to the police

### Planned approach

We will promote national and local campaigns to raise awareness of littering. These will include smoking litter and chewing gum.

We will aim to promote responsible dog ownership by warning of the dangers caused by failure to remove dog fouling, and of the potential penalties for not doing so.

We will issue FPN's in all cases where a dog owner is identified and seen not to clear up after their pet forthwith.

We will work with partner organisations to identify and target areas where high levels of dog fouling are found.

We will work with local shops and licensed premises to encourage them to take responsibility for litter originating from their premises, such as smoking litter outside bars. Where voluntary agreements can't be achieved the council can impose a Community Protection Notice (CPN) imposing an obligation to remove litter resulting from the operation of the business and to take steps to prevent litter developing in the future.

Failing to comply with a CPN is an offence which may result in an FPN, prosecution or works being carried out that can be recharged to the person or organisation issued with the notice.

We will make checks where it is suspected that businesses do not have proper arrangements in place for disposal of their waste, or where it is not properly contained to prevent escape into public areas. The council has powers to impose solutions in such circumstances.

FPN's will be issued where it is considered that a person has wilfully dropped litter or if they have been previously warned for doing so. Unpaid FPN's may result in court action being taken.

Where it is considered appropriate we will offer the opportunity to pick up and properly dispose of dropped litter as an alternative to receiving an FPN.

For abandoned vehicles, we will aim to reclaim our costs from the last registered owner/keepers of all vehicles removed from the highway or private land.

We will look to issue an FPN to any person found to be responsible for abandoning a vehicle in the district. If the FPN is not paid we can prosecute for the original offence.

If graffiti is found to be persistent and having a detrimental impact and a lack of action to remove the graffiti from a premise by the landowner is considered unreasonable, then we will in certain cases issue CPN's to landowners compelling them to remove graffiti from their premises.

East Cambridgeshire District Council will liaise with businesses who may be involved in fly posting. If the practice continues and it is causing a persistent and detrimental impact to the amenities of the area, then the council will use its full range of powers to more formally discourage businesses or persons from continuing in this practice.

Officers have appropriate training which enables them to use their discretion in their enforcement recommendations.

Any recommendation to serve a formal notice is reviewed by a senior officer before progressing.

Any recommendation to proceed to court for prosecution is reviewed by a senior officer and the service lead, prior to final decision being made by the Legal team.

If a prosecution is brought, the council will always submit a claim to cover their costs, including costs of removal of material if applicable.

## Appendix D – other offences

Considering examples of ASB offences that could come under the category of environmental crime, burning of waste material is an issue officers are often called to investigate.

Although burning can take place within the curtilage of domestic premises, for example, when disposing of cuttings from domestic garden maintenance, care must be taken so as to not burn items that will render the householder liable to prosecution. Plastics, treated wood, oil based materials, polystyrene, to name a few, release harmful chemicals when burned which can cause harm or pollution of the environment.

Harm under the EPA 1990 defines the term to mean ‘offence to any of his senses or harm to his property’ and pollution refers to the release or escape from the land where the waste is treated, deposited, kept or disposed, of substances or articles constituting or resulting from the waste and capable of causing harm to man or any other living organisms supported by the environment.

Similarly, for commercial sites, wastes must not be burned that are not covered by a D7 exemption which allows limited burning of organic materials and wood from joinery. A D7 exemption can be registered with the Environment Agency. Commercial sites must not burn plastics, treated wood or oil-based materials unless there is a permit in force from the Environment Agency allowing this.

In the case of businesses burning wastes outside of the limits of a permit or a D7 exemption, the business may be held liable for a breach of the waste duty of care at section 34 of the EPA 1990, which states: ‘it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a dealer or broker, has control of such waste, to take all such measures

applicable to him in that capacity as are reasonable in the circumstances to prevent any contravention by any other person of section 33 or to prevent any contravention by any other person of regulation 12 of the Environmental Permitting Regulations or of a condition of an environmental permit’.

### Examples of the powers available:

- it is an offence at Section 33 of the EPA 1990 to keep, treat or dispose of waste in a way that causes pollution to the environment or harm to human health; burning waste will engage this power where commercial sites burn materials that are not exempted and domestic premises will engage this when incorrect materials are burned; offences carry an unlimited fine and or imprisonment on conviction
- it is an offence under the Clean Air Act 1993 to emit dark smoke from any trade or industrial premises and carries a fine of up to £20,000 on conviction
- officers will employ search and seizure powers under the Environment Act 1995 which allows officers to enter and inspect such fires and document or seize evidence of an offence

### Planned approach

We will make information available to households and businesses to ensure that they are aware of materials that must not be burnt.

Where practicable, we will attend reports of fires burning improper materials and document and/or seize evidence of an offence.

We will, alongside the consideration of prosecution for offences committed in relation to the burning of wastes, issue a

Community Protection Warning (CPW), which may lead to a Community Protection Notice (CPN) requiring the cessation of burning activities and a requirement to produce evidence of authorised waste transfer documentation. Breach of a CPN may result in an FPN or prosecution for failure to comply with the requirements of the notice.

We will make information available to households and businesses to ensure they are aware of the need to control all activities that may cause a nuisance to others.

We will investigate complaints of statutory nuisance in accordance with our procedures, which may involve monitoring of the activities being undertaken.

If a statutory nuisance is not established but the activity is considered by officers to be having a detrimental effect on the quality of life for persons in the district, by affecting the community or local environment, and the behaviour is persistent and continuing, then consideration will be given to service of a CPW, which may lead to a CPN.

CPW's and/or CPN's will be considered and may be employed in the early stages of investigations for other offences, for example statutory nuisance, pest control, public health matters and so on.

Officers have appropriate training which enables them to use their discretion in their enforcement recommendations.

Any recommendation to serve a formal notice is reviewed by a senior officer before progressing.

Any recommendation to proceed to court for prosecution is reviewed by a senior officer and the service lead, prior to final decision being made by the Legal team.

## Appendix E – fixed penalty charges

Environmental offence	ECDC adopted fixed penalty charge	Updated government guidance on max levels under The Environmental Offences (Fixed Penalties) Amendment Regs 2023
Illegal waste deposit	£400	£150 to £1000
Failure to produce a waste carriers' licence or waste transfer documentation	£300	no data
Breach of householder Duty of Care	£200	£150 to £600
Abandoning a vehicle	£200	no data
Nuisance parking	£100	no data
Alarm noise	£80	no data
Littering	£150	£65 to £500
Graffiti	£150	£65 to £500
Fly posting	£150	£65 to £500
Unauthorised distribution of free literature on designated land	£150	£65 to £150
Breach of the Public Space Protection Order (for example, failure to clear up dog fouling)	£80	no data

We will keep under review the fixed penalty charges to be applied for all offences, in accordance with government guidance and the assessed local impact of adopting higher fines.

Consideration will again be given during any review to the possible adoption of a discounted penalty for early payment of charge or a variation in fixed penalty charged, dependant on the seriousness of the offence or the amount of waste being deposited and so forth.