



Environmental Protection Enforcement Policy



Three Rivers District Council

Environmental Protection Enforcement Policy

(Last updated December 2019)

Introduction

The aim of this policy is to determine good practice and to demonstrate clarity and consistency in the delivery of waste, environmental enforcement duties and powers relevant to Council's Waste Management and Environmental Enforcement Functions.

The core functions relate to enforcement:

1. Abandoned Vehicles
2. Fly tipping
3. Litter
4. Graffiti and fly-posting
5. Waste duty of care (domestic and commercial)
6. Waste Carrier Licences
7. Nuisance Vehicles
8. Commercial and domestic waste bin offences
9. Community Protection Notices (Waste, Graffiti and Litter bins)
10. PSPO – Included in the Animal Control Policy
11. Waste accumulation on land

The details contained in this document will offer guidance and assistance to officers involved in enforcement activities in Environmental Protection.

Authorised officers in accordance with this policy will carry out all enforcement action.

The policy is available to interested parties in order to help ensure that the Council's approach to enforcement is as open and fair as possible. It will be published on the Council's website.

Overview of core functions:

1. Abandoned Vehicles

Section 2 of the Refuse Disposal (Amenity) Act 1978, makes it an offence to abandon a motor vehicle, or any part of a motor vehicle, on a highway or any land in the open air. This includes any trailer intended or adapted for use as an attachment to a motor vehicle. Officers may also deal with vehicles, which do not fall within the definition of abandoned but are nuisance vehicles, under powers detailed in paragraph 4.

The Environmental Enforcement Officer will assess the vehicle to decide whether it is abandoned. There is no statutory definition of an abandoned vehicle and factors to be taken into account include but are not limited to, current tax, MOT status, length of time at location and damage to vehicle.

The Council is under a duty to remove motor vehicle unlawfully abandoned on any land in the open air and can recover its charges from either the owner or the person who abandoned it. Section 3(2) and 3(2)(A) of the Refuse Disposal (Amenity) Act 1978 provides for notice periods before removal which officers will follow.

A Fixed Penalty Notice can be issued at the level shown on Appendix 1 of this policy to anyone who abandons a vehicle. Offenders can also be prosecuted.

2. Fly tipping

Section 33 Environmental Protection Act 1990 states that a person shall not deposit controlled waste or knowingly cause or permit controlled waste to be deposited in or on any land, without an environmental permit authorising the deposit.

Definition of fly tipping – Taken from Hertfordshire Fly Tipping Group report on Fly tipping 2016

Until recently, the numbers of fly tipping incidents recorded in each borough / district were not comparable as a result of different definitions of fly tipping leading, for example to some incidents being classed as littering when in fact they constituted fly tipping under Defra (Department of the Environment, Food and Rural Affairs) guidance.

Technically there is no definition of fly tipping other than the offences set out in section 33 of the Environmental Protection Act 1990, i.e. the illegal disposal of controlled waste. The Litter & Refuse Code of Practice published by Defra in 2006 noted that a single plastic sack of rubbish should usually be considered fly tipping rather than litter. However, the use of the term 'usually' indicates an acceptance that definitions cannot be rigid.

In this context, it is commonly assumed that fly tipping is as a result of deliberate negative behaviour ranging from those that care little about their local amenities to those seeking to profit from the illegal dumping.

However, it is common knowledge that a proportion of the fly tipping incidents recorded each year stem from individuals acting in what they believe to be a fair and reasonable manner, i.e. leaving out additional black bags to be collected alongside their refuse bin on collection day where the motivation is not negative but rather is intended as being responsible. In Hertfordshire, some authorities would class this as fly tipping and some would not; TRDC would only act on this if the bag was moved and left out on the highway.

Taking the above into account and in order to further improve the level of consistency when it comes to the definition of fly tipping in relation to black bags, it is recommended that incidents that occur on collection day, i.e. plastic bags placed next to a bin on collection day should not be defined as fly tipping.

Exceptions to the definition would include:

Plastic bags left out on non-collection days;

Plastic bags left out in numbers that indicate unusual waste behaviour, i.e. the illegal deposit of trade waste as domestic;

Repeat offenders, i.e. those that regularly leave out excess waste for example as a result of refusing to engage with the comprehensive recycling services now offered by each of Hertfordshire's Boroughs and Districts;

Plastic bags left out by commercial customers contrary to their contracted waste arrangements. Such incidents should continue to be treated as either fly tipping or alternatively as 'Duty of Care' offences.

A person guilty of an offence is liable, on summary conviction, to imprisonment for a term not exceeding 12 months or an unlimited fine or both; on conviction on indictment, to imprisonment for a term not exceeding five years or an unlimited fine or both.

The Council may prosecute or issue a Simple Caution or a warning letter or a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy.

3. Litter

Section 87 and 88 of the Environmental Protection Act 1990 provide that a person is guilty of an offence if he/she throws down, drops or otherwise deposits any litter in any place which is open to the air to which the public has access, with or without payment.

Litter includes material often associated with smoking, eating and drinking, including cigarette butts, chewing gum, bags of dog faeces and small bag of waste.

A person guilty of an offence is liable to a fine up to level 4 (£2,500) and the Council may prosecute or issue a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy.

3.1. Littering From Vehicles

Legislation was introduced in 2018 regarding litter from vehicles under The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018. The litter authority, Three Rivers DC, can issue a Fixed Penalty Notice to the registered keeper of the vehicle.

Representations against the penalty notice. A person to whom a penalty notice has been issued to may make written representations to the Council, the grounds of appeal are listed in part 4, section 14 of the Act.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy. The Council may recover any unpaid amount of the fixed penalty and any related costs either;

- (a) As a civil debt
- (b) As if payable under a county court order

4. Graffiti and Fly Posting

This is governed by Section 43 of the Anti-Social Behaviour Act 2003. An Environmental Enforcement Officer can issue a Fixed Penalty Notice for defacement of property by graffiti or fly posting. There are no powers for the Council to deal with

racially or religiously motivated graffiti or fly posting, this is covered by section 30 of the Crime and Disorder Act 1998.

A person guilty of an offence under section 1(1) of the Criminal Damage Act 1971 is liable to an unlimited fine or imprisonment in either the magistrates' court or the crown court.

5. Waste Duty of Care

Domestic

Section 34 (2A) of the Environmental Protection Act 1990 provides that the occupier of any domestic property has a legal obligation or Duty of Care to ensure waste is disposed of appropriately or transferred to a licensed waste carrier.

A person guilty of an offence is liable to an unlimited fine in either the magistrates' court or the crown court or issue a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy

Business

Section 34(1) of the Environmental Protection Act 1990 covers any person who imports, produces, keeps, treats or disposes of controlled waste and all businesses operating in the Three Rivers District Council area must employ a registered waste carrier to collect waste or hold a waste carrier's licence to transport their own waste to another site or transfer station (tip). The waste carrier must be authorised to take the waste for disposal.

A list of registered waste carriers can be found on the Environmental Agency website. All businesses have a duty to ensure that their waste is not dumped by another party and that it does not escape from their premises. They can be prosecuted if they fail in this duty.

All businesses must have two years' evidence of their waste management arrangements; this is known as a Waste Transfer Note or Duty of Care Certificate. Environmental Enforcement Officers regularly monitor businesses to ensure they are fulfilling their obligation under the Act. This can result in a notice under EPA90 Section 34(5) being issued. Failure to provide a Waste Transfer Note or Duty of Care Certificate can result in a Fixed Penalty Notice being issued or prosecution when an unlimited fine can be imposed in the magistrates' court or the crown court. The period allowed by the Council for the business to comply is 10 days.

6. Waste Carrier Licences

Control of Pollution (Amendment) Act 1989. It is an offence for any person who is not a registered carrier of controlled waste, in the course of their business or otherwise with a view to profit, to transport any controlled waste to or from any place in Great Britain.

Section 5 of the Act gives authority to authorised officers to check and search any vehicles which he or she reasonably believes is being or has been used for transporting waste.

A person guilty of an offence is liable to an unlimited fine and the Council may prosecute or issue a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy

7. Nuisance Vehicles

Section 3 Clean Neighbourhoods and Environment Act 2005 makes it an offence to expose vehicles for sale on a road and a person is guilty of an offence if at any time he leaves two or more motor vehicles parked within 500 metres of each other on a road or roads where they are exposed or advertised for sale. This offence is dealt with by the Planning Department.

Section 4 Clean Neighbourhoods and Environment Act 2005 makes it an offence for a person to carry out repairs to vehicles on a road unless they have been in an accident within the last 72 hours or have broken down and repairs are necessary. Environmental Enforcement Officers will investigate reported vehicles and assess according to the Act.

A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale which is currently £2,500 and the Council may prosecute or issue a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy

8. Commercial and domestic waste bin offences

Households

Section 46 of the Environmental Protection Act 1990 allows Three Rivers District Council to specify which items can be placed in each bin and/or pod and the collection point on collection day. Households incorrectly presenting/ contaminating/ excess waste/ not retrieving bin(s)/pod(s) will be issued with a written warning under Section 46A of the Act. In cases where failure to comply continues final notice of intent is issued and, if the failure to comply continues then a Fixed Penalty Notice will be issued. The procedure required before issuing a fixed penalty is set out in section 46C EPA 1990 and will be followed by officers. The amount of the FPN is recoverable as a civil debt and no prosecution follows under this section. However officers may consider a community protection notice. See paragraph 8.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy. There is a right of appeal against a final notice to the First Tier Tribunal provided for at section 46D

Commercial

Section 47 of the Environmental Protection Act 1990 allows Three Rivers District Council to specify which items can be placed in each bin and the collection point on

collection day. Where there is non-containment of waste the Council can under notice specify an increase in bin capacity or increase in collection.

A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection 47(2) or (4) above shall be liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale. The Council may prosecute or issue a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy

9. Community Protection Notices (Waste, Graffiti and Litter Bins)

The Anti-Social Behaviour, Crime & Policing Act 2014 under Section 43 of the Act provides that a Community Protection Warning/Notice (CPW/N) can be issued by authorised officers if the conduct of the individual or body (business, organisation etc.) is having a detrimental effect on the quality of life of those in the locality, that the conduct is persistent and continuing and that the conduct is unreasonable.

Environmental Enforcement Officers will:

1. Inspect/ monitor reports
2. Issue a warning which is a requirement of the Act before a CPN is issued
3. Issue Community Protection Notice specifying the conduct to be stopped or action to be taken
4. Monitor the behaviour of the offender after the CPN is served
5. Issue an FPN for breach giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty
6. Consider remedial action under section 47 of the Act
7. If the FPN is not paid and/or the conduct continues or is repeated then they will consider a prosecution. Breach of a CPN carries a fine in the magistrates court at level 4 for an individual (£2,500) or an unlimited fine for a body

Environmental Enforcement Officers can use their powers to issue CPNs to deal with the following matters.

- Litter/waste on land (replaces litter clearing notices)
- Graffiti removal (replaces defacement removal notices)
- Litter picking/ provision of litter bins outside shops/ businesses/ Pubs/ banks/ social clubs etc. (replaces street litter control notices).

This list is not exhaustive and the CPN has wide-ranging application.

Section 46 of the Act provides an appeal mechanism for aggrieved recipients of a community protection notice. They have 21 days from being issued with the notice to appeal to a magistrates' court. The Act does not have an appeal mechanism for a Community Protection Warning.

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy

10. PSPO

The Environmental Enforcement Officers support the Animal Control Enforcement Officer in upholding the Three Rivers District Council PSPO - **Public Spaces**

Protection Order (Three Rivers District Council) 2016 (referred to as PSPO 1 of 2016)

in relation to dog control. This would include:

- Dog fouling
- Loose dogs causing nuisance, annoyance or disturbance to the public
- Dogs not on a lead in the area around the Café in the Aquadrome
- Dogs in children's play areas, outdoor gyms, skate areas, courts and fenced picnic area
- Dogs being in a designated area when grazing animals are present (seasonal)
- One person being in charge of more than 4 dogs at one time.

A person guilty of an offence is liable to a fine up to level 3 (£1,000) and the Council may prosecute or issue a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty. The power to issue fixed penalties for breach of this PSPO has also been delegated to certain named posts such as park rangers and parish council employees. This delegation is provided for in the Constitution

The Fixed Penalty Notice will be issued at the level shown on Appendix 1 of this policy

11. Waste accumulation on land

The Environmental Protection Act 1990 under section 79 statutory nuisances, subsection (e) any accumulation or deposit which is prejudicial to health or a nuisance. The enforcement team will inspect on any reports and will work with the owner/occupier to address the issue. If the owner/ occupier fails to clear the waste then a legal notice will be issued.

A person guilty of an offence under section 80 of the Environmental Protection Act 1990 is liable to a fine not exceeding level 5 in a magistrates' court for the breach of the abatement notice. A further fine of an amount equal to one-tenth of the greater of £5,000 or level 4 on the standard scale for each day on which the offence continues after the conviction.

Principles of enforcement

Enforcement is any formal or informal action to prevent or rectify infringements of legislation. The enforcement options may differ where different areas of legislation are used, but the principles of application should remain constant and consistent.

Enforcement includes visits, inspections, verbal and written advice on legal requirements and good practice, assistance and compliance, written warnings, the servicing of statutory notices, issuing fixed penalty notices, simple cautions, prosecution, seizure and detention, stop and search operations, works in default,

injunctions and liaison and co-operation with other enforcement authorities and organisations where appropriate.

The Council aims to carry out its environmental enforcement policy in a fair, equitable and consistent manner.

Scope of the Policy

The Council has key legislation, under the Environmental Protection Act 1990, Clean Neighbourhoods Act 2005, Control of Pollution (Amendment) Act 1989, Anti-Social Behaviour Crime and Policing Act 2014, Controlled Waste Regulations (England and Wales) 2015 and other legislation relating to the environment. These offer a wide range of powers to enable the Council to fulfil the duties for which it is responsible.

The method of enforcement used should be balanced to produce the highest reasonable standards of compliance within the least time.

Enforcement Options Available

1. Informal action and advice – written or oral – where appropriate
2. Mediation
3. Formal statutory notice
4. Fixed penalty notices
5. Simple caution
6. Prosecution
7. Execution of works in default
8. No action – where there is insufficient evidence to pursue action, or where it may not be cost effective to continue, or in the public interest.

Informal Enforcement

Many persons, having had a problem for which they are responsible drawn to their attention, will be anxious to comply with their statutory obligations. In such cases the environmental enforcement officer's role will be to guide and support. In most cases, the first contact with a person reported to the Council or believed to be causing or permitting an offence, will be by advisory letter or verbal communication.

If written observations, suggestion or requirements are appropriate such written guidance will clearly identify the nature of the complaint or problem and any remedial works that are required.

Any requirement made verbally or in writing will clearly identify whether they are mandatory or advisory in nature. If the requirements are mandatory, a timescale for compliance will be specified.

Informal written warnings may be issued to make clear that the Council will view any further breaches of legislation seriously and that these may be subject to enforcement action. Written advice on good practice, statutory compliance and information may be provided where there is a need to assist the person/ company in meeting requirements.

Formal Enforcement

Enforcement may be used where the Council has exhausted all informal enforcement provisions. This may include the issue of a statutory enforcement warning/notice of

some description which may oblige the recipient to undertake a certain course of remedial action in order to avoid legal proceedings.

The Council would consider formal action where:

- An informal approach has already failed
- The legislation specifies that the Council must serve a notice and the offence is of a serious nature.

The Enforcement Team are all trained to carry out recorded interviews under caution in accordance with PACE (Police and Criminal Evidence Act 1984). Where possible, interviews are conducted in the interview room at Three Rivers House. In cases where a criminal investigation is deemed appropriate, then suspects will be invited in for interview under PACE but it must be remembered that, at the time of issuing an FPN, there must be sufficient evidence to prosecute for that offence and an interview cannot then be considered.

Where there are rights of appeal against the issue of a notice, the service will, at the time the Authority takes action, issue clear written advice on how to appeal. Whenever possible, the type of advice or information will be issued with the enforcement notice.

CCTV, photographic and video evidence

Where evidence is obtained from CCTV cameras operated by TRDC, then the use of that evidence will be covered by TRDC policies on cameras and RIPA and in accordance with advice from the legal department.

Where other agencies or members of the public provide evidence by way of CCTV, photographs or film, then reference will be made to the guidance issued by The Surveillance Camera Commissioner when deciding what use to make of that evidence.

Fixed Penalty Notices

In certain circumstances, it may be appropriate to issue a fixed penalty notice for the relevant offence. The fixed penalty will allow the offender to discharge responsibility for the offence and avoid action through the Magistrates' Court.

These should be issued in accordance with relevant legislation.

If someone is issued with an FPN that person has 14 days from the date of issue to pay the fixed penalty notice unless the payment time limits are otherwise specified by statute. However if the offender pays within 7 days he or she may pay a reduced rate. Fixed Penalty Notices can be paid by calling 01923 776611 or online payment at: <https://www.threerivers.gov.uk/page/pay-for-it> .

There is no right of appeal in the Three Rivers Authority against the issue of a Fixed Penalty Notices issued under The Environmental Protection Act 1990, the Anti-social Behaviour Crime and Policing Act 2014, Refuse Disposal (Amenity) Act 1978 Clean Neighbourhoods and Environment Act 2005 where criminal proceedings may follow and failure to pay may result in prosecution. However, Three Rivers District Council will consider written representations on an informal basis in the interest of fairness. All representations must be made by the company or person that was issued the FPN by writing to Three Rivers District Council, Three Rivers House, Northway, Rickmansworth, Herts, WD3 1RL or emailing enquiries@threerivers.gov.uk

Where there are cases of persistent or serious offences including multiple Fixed Penalty Notices (paid or unpaid), Three Rivers District Council may take legal action in the form of a prosecution.

The income from the Environmental Enforcement FPNs is used to fund promotions, education and equipment to reduce environmental crime.

Juveniles

Juveniles will be dealt with in accordance with Home Office Guidance

Juveniles are aged 10 to 17;

When issuing FPNs to juveniles, officers should:

- always be in uniform
- never touch a young person
- approach from the front, not behind
- identify yourselves and offer formal identification
- ideally work in pairs.

When Juveniles are aged 16 to 17;

Officers must get all of the following from the offender:

- name
- address
- age
- date of birth.

Also get the name and address of a parent or legal guardian of the offender.

Officers must tell the young offender that this information will be shared with their local youth offending team.

If it is felt necessary to interview a young person under 17 under caution officers must do so with an appropriate adult present.

If officers have any doubts as to whether the offender is 16 or over, they will follow the procedures for dealing with 10 to 15 year olds.

Juveniles aged 10 to 15;

An officer can issue an FPN to 10 to 15-year-olds on the spot in the following cases:

- if the officer knows the offender
- if the offender's school has agreed to the use of FPNs

The officer must tell the offender's parents, guardian or school as soon as possible.

If the officer does not know the offender or their school has not agreed to the use of an FPN, the officer should obtain the young person's details, and details of their parents or legal guardian to make further enquiries.

If it is decided that an FPN is suitable, the officer should issue it to the offender in person with a parent or legal guardian present.

Prosecutions

The Council will exercise discretion in deciding whether to initiate a prosecution. Other approaches to enforcement may promote compliance with legislation more effectively (as previously detailed).

However, where the particular circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.

In addition, consideration will be given to best practice guidance from Government Departments and Agencies, Herts Waste Partnership and other Local Authorities and advice offered by the Council's Legal Department in accordance with the Code for Crown Prosecutors,

Officers will, subject to their statutory duties, act in accordance with the Council's procedures when approaching individual cases or complaints and will initiate the type of enforcement action warranted by the nature and severity of the offence.

Officers will seek to help all members of the public and business community to understand their rights and obligations to comply with relevant legislation.

The Council will take legal proceedings if there is sufficient evidence to do so and where it is in the public interest to do so.

When considering legal proceedings or the issuing of an FPN or a simple caution, the immediate consideration is the sufficiency of available, admissible evidence to substantiate the allegation that a criminal offence has been committed.

In determining the sufficiency of evidence, consideration should be given to the following factors:

- Availability of essential evidence
- Credibility of witnesses.

Where the case depends in part on admissions or confessions, consideration should be made to their admissibility and whether interviews, statements and other evidence have been obtained in compliance with relevant legislation.

In determining the admissibility of evidence, regard should be given to the requirements of the Police and Criminal Act 1984 and the Criminal Procedure and Investigations Act 1996, and associated Codes of Practice.

If the cases do not pass the evidential test they may not go ahead. If the case does meet the evidential test, the Council will decide if formal enforcement action is in the public interest.

Guidance and advice will be taken from the Council's Legal Department where appropriate.

Publicity

We will draw media attention to factual information about convictions, Simple Cautions and FPNs which could serve to broadcast the requirement to comply with environmental law. Publicity will be in accordance with the Data Protection Act 2018, General Data Protection Regulations 2018 and the Council's policy on the publication of convictions.

The Public Interest Criteria

When satisfied that sufficient evidence is available, consideration must be given to whether the public interest requires a prosecution. Suspected offences should not automatically be the subject of prosecution, but that prosecution should follow

wherever it appears that the offence or its circumstances is or are of such a character that a prosecution is required in the public interest.

The factors which can properly lead to a decision not to prosecute will vary from case to case but, generally, the more serious the offence, the less likelihood there will be that the public interest will be served otherwise than by prosecution.

The following considerations should apply:

- the seriousness of the offence
- the degree of detriment or potential detriment to local residents, businesses or the environment.

The likely penalty may be indicative as will current public attitudes to particular breaches of the law and regulations.

- The age of the offence.

Regard must be had not only to when the offence was committed, but also to the length of time likely to elapse before the matter can be brought to court. Less regard will be paid to the duration of the time period since the offence was committed if it has been contributed to by either the defendant themselves, the complexity of the case or the particular characteristics of the offence that have contributed to the delay in its emergence.

- The age, circumstances or mental capacity and special educational need/disability of the offender.

The age whether young or old, will have a bearing on the decision to prosecute, unless there is a real possibility of repetition of the offence which is of a serious nature. One must also consider the mental capacity of the offender to understand legislation and its enforcement, as well as whether a learning disability or physical disability have a bearing on their offending. One must also consider whether the defendant is likely to be fit enough to attend court.

- Complainant's attitude.

In some cases, it will be appropriate to consider the attitude of a complainant who later expresses a wish that no action be taken because the offender has shown remorse for the offence, or offered to redress the offence.

- The willingness of the offender to prevent a recurrence of the problem.

If the circumstances that give rise to the offence have subsequently been rectified, and there is little likelihood of a recurrence, then the case may be dealt with more appropriately by other means.

- The newness of the legislation transgressed, especially where the offence is of a technical nature, and future compliance may be obtained by less formal means.
- Any important but uncertain legal points, which may have to be tested by way of prosecution.
- Advice offered by the Council's Legal Team.

Targeting

The Council's environmental enforcement resources are limited and, where appropriate, they should be focused on those persons, premises, companies or locations whose activities give rise to the greatest or most serious or least well controlled risks.

Enforcement is informed through intelligence gathered or arising from investigation of complaints and planned projects, special surveys, stop & search, training and enforcement initiatives – some may result in departures from the programme of inspections.

Training and Qualifications of Enforcement Officers

No officer will carry out enforcement duties unless suitably trained, experienced and authorised. This will be by relevant qualification and/or experience and necessary delegated authority. Training will be provided for all enforcement officers, as required, to meet changes in legislation and enforcement procedures.

Complaints about the service

The service will provide well-publicised, effective and timely complaints procedures easily accessible to the public, business and consumer groups. See <https://www.threerivers.gov.uk/service/complaints>

In cases where disputes cannot be resolved, any right of complaint, appeal will be explained, with details of the process and the likely time-scales involved.

Equal and fair treatment

Enforcement practices will be constantly monitored and reviewed to ensure that they are fair and equitable

Monitoring of Policy

The implications and effectiveness of this policy will be constantly monitored and reviewed as necessary.

Any cases where decisions are made on the merits of the case, but which may fall outside of the current policy, will be recorded and taken account of in subsequent reviews of this document.

A review of the policy will be carried out when new legislation comes into effect, which may introduce new types of powers and possible actions that enforcement officers may be able to take.

Human Rights

All enforcement action and investigations will be carried out in a manner that complies with the requirements of legislation and codes of practice governing the collection of evidence and investigatory powers.

This will include any surveillance activity which will comply with the Regulation of Investigatory Powers Act 2000, Data Protection Act 2018, Information Commissioner's Office Guidance and the Surveillance Camera Commissioner's Guidance

Consideration will be given to ensure that any actions do not contravene rights conferred by The Human Rights Act 1998 or any other legislation.

Referrals and Joint Enforcement

The Council will routinely consult and work with other agencies in respect of this policy, including:

Hertfordshire Constabulary on issues concerning fly tipping, littering, abandoned vehicles, graffiti, fly posting, anti-social behaviour in parks and open spaces.

The Environment Agency on issues concerning fly tipping, waste carriers' licences and a range of other environmental issues.

The DVLA (Driver Vehicles Licensing Authority) on issues concerning Abandoned and Nuisance Vehicles, fly tipping and littering.

Other Council departments (e.g. Waste Services, Community Safety, Environmental Health (Residential and commercial), Planning etc.)

Neighbouring Authorities' information is shared between authorities to tackle environmental crime and joint operation and prosecutions

The Environmental Enforcement Team are represented on the Anti-Social Behaviour Action Group as part of the Three Rivers Community Safety Partnership and information is shared with Community Safety, Hertfordshire Constabulary, Hertfordshire Fire and Rescue Service, Local Housing Providers and Health and protection services.

Information of allegations outside the remit of this service may be referred to the other Councils or Enforcement Agencies which will include written statements, evidence, background information and witness contact details (if witness agrees), to enable that agency to investigate the allegation.

Appendix 1

Offence Type	Description	Level of Penalty Resident	Level of Penalty Commercial
EPA s87	Littering	FPN £150 with a reduction to £100 for early payment	FPN £150 with a reduction to £100 for early payment
EPA s33	Fly tipping – illegal depositing of waste	For small amount (1 bag) see EPA s87. 2 bags to 5 bags or bulky items – FPN £300 with a reduction to £200 for early payment Larger fly tips – Simple Caution or prosecution	1 bags to 5 bags or bulky items – FPN £300 with a reduction to £200 for early payment Larger fly tips – Simple Caution or prosecution
EPA s34	Duty of Care Applies to both residents and businesses. The duty of care; is a legal requirement, to prevent the escape of controlled waste.	FPN £300 with a reduction to £200 for early payment. Simple Caution or prosecution	FPN only for Sec34(5) notice, see below. Simple Caution or prosecution
EPA s34(5) notice	Duty of Care. Request for transfer or DOC Certificate for the transfer of commercial waste. 14 days to reply	N/A	FPN £300 with a reduction to £200 for early payment. Simple Caution or prosecution
EPA s46	Requirement for household waste to be placed in appropriate receptacles (contamination and excess waste) and at specified collection times	First offence – warning notice Second offence – final warning Subsequent offences FPN £60 with a reduction to £40 for early payment. Civil action	N/A
EPA s47	Requirement for commercial waste to be placed in appropriate receptacles and at specified collection times	N/A	First offence Statutory notice issued Second offence FPN £100 with a reduction to £75 for early payment. Simple Caution or prosecution

Control of Pollution Act 1989	Waste Carrier Licence inspection	N/A	FPN £300 with a reduction to £200 for early payment. Simple Caution or prosecution
ASBC & P	Breach of Community Protection Notice Issued for: Graffiti removal Clearance of waste from land Keeping land clear of waste Litter bins outside of food on the go shops and banks Litter bins for cigarette litter outside of shops, PH and offices	FPN £100 with a reduction to £75 for early payment. Simple Caution or prosecution	FPN £100 with a reduction to £75 for early payment. Simple Caution or prosecution
CN&E Act 2005 S4: Repairing vehicles on a road S3: Vehicles for Sale	Repairing vehicles on the road	For gain or reward or causing annoyance. FPN £100 with a reduction to £60 for early payment. or Simple Caution or prosecution	Business repairs FPN £100 with a reduction to £60 for early payment. or Simple Caution or prosecution
Anti-Social Behaviour Act 2003 Section 43	Graffiti and fly-posting	FPN £150 with a reduction to £100 for early payment	FPN £150 with a reduction to £100 for early payment
Refuse Disposal (Amenity) Act 1978	Abandoned Vehicle	FPN £200 with a reduction to £150 for early payment. or Simple Caution or prosecution	FPN £200 with a reduction to £150 for early payment. or Simple Caution or prosecution
Anti-social Behaviour Crime & Policing Act 2014	PSPO relating to Dogs	FPN £75 with a reduction to £50 for early payment or prosecution	FPN £75 with a reduction to £50 for early payment or prosecution
The Littering From Vehicles Outside London (keepers: Civil Penalties) Regulations 2018	Littering from vehicles	FPN £150 with a reduction to £100 for early payment	FPN £150 with a reduction to £100 for early payment

EPA – Environmental Protection Act 1990

ASBC & P – Anti-Social Behaviour, Crime and Policing Act 2014

Version 2: FPN for EPA Section 34(2A), The Littering From Vehicles Outside London (keepers: Civil Penalties) Regulations 2018.