



Local Environmental Quality Enforcement Policy

1. Introduction

The Environmental Protection Act 1990 places a duty on local authorities to ensure that the roads and highways for which they are responsible are kept clear of litter and refuse as far as it is reasonably practicable. The Act also imposes a duty on waste collection authorities to arrange for the collection of household waste in their areas.

In addition to these statutory duties, Stratford-on-Avon District Council ('the Council') is committed to enhancing the attractiveness of the district and reducing anti-social behaviour, crime and the fear of crime. These commitments recognise the link between poor local environmental quality (LEQ), perception of place and the fear of crime whilst also recognising that everyone in the district has a personal responsibility to manage their waste responsibly and keep the district free of litter, fly-tips and other LEQ issues.

There is a large body of evidence to show that LEQ issues can have a significant detrimental impact on local communities. For example, graffiti is not just criminal damage to someone else's property; it is also a signal that can encourage further vandalism and more serious crimes. The prevalence of LEQ issues such as litter, fly-tipping, graffiti and fly-posting in an area can leave local communities feeling forgotten, impacting on perceptions of place and quality of life.

The Clean Neighbourhoods and Environment Act 2005 introduced a raft of new powers for local authorities to use to help tackle LEQ issues and anti-social behaviour. This policy sets out how the Council will use these (and other) powers and tools at its disposal to ensure that enforcement work is carried out in an effective, consistent, proportionate and fair manner across the district.

In conducting our enforcement work, the Council is committed to observing the Principles of Good Enforcement, as set out in the *Enforcement Concordat: Good Practice Guide for England and Wales*, produced by the Government's Better Regulation Unit; and the *Regulators' Code*, published by the Department for Business, Innovation and Skills.

The scope of this policy extends to all LEQ issues experienced across the district on public land and its aim is to improve the district's LEQ by reducing environmental crime.

2. Council's Commitments

- We will take actions to support residents, businesses and visitors by raising awareness of good practice in terms of waste management, litter control and other LEQ issues;
- We will raise awareness amongst residents, businesses and visitors of their responsibilities and obligations and what constitutes an offence in terms of waste management, litter control, fly-tipping and other LEQ issues;
- We will use overt cameras where necessary to encourage a reduction in anti-social behaviour such as regular fly-tipping in known areas;

- We will undertake enforcement action in a reasonable, consistent and appropriate manner;
- We will ensure that enforcement action is proportionate to the risk/impact posed by the offence; and
- We reserve the right to take firm and immediate action whenever necessary without offering prior advice or guidance when significant threats are posed to the environment or public safety or when the Council has to deal with offences that are prevalent in the area.

3. Enforcement Powers

The Council defines ‘enforcement’ as encompassing all the actions that we may take to achieve compliance with environmental and anti-social behaviour legislation. The level of enforcement action taken will be in proportion to the severity of the crime. The main levels of enforcement are as follows:

Table 1: Enforcement Levels

Level	Action	Comments
1	Education	General awareness raising activities offering guidance and support, and include such things as media campaigns, attendance at community events and residents meetings, and providing residents, businesses and visitors with appropriate information about the impact of certain activities.
2	Advice	General written or verbal advice given, often in response to minor issues of non-compliance, clearly and unambiguously setting out the standards required by the Council, and offering advice and assistance with compliance.
3	Community Protection Warning Notice (CPW)	A formal written warning given imposing statutory requirements, often issued in response to more serious breaches of standards and often with a stipulation that compliance be achieved within a specified period.
4	Community Protection Notice (CPN)	A formal notice given on any occasion when there is non-compliance with a CPW, breaches of conditions of compliance or failure to comply with a CPN will result in a fixed penalty notice or prosecution.
5	Fixed Penalty Notice	A formal notice given on any occasion when there is a reason to believe that a person has committed an offence and offering that person the opportunity of discharging any liability to conviction by payment within a specified period.
6	Prosecution	Action taken in response to serious or prevalent offences, breaches of conditions of compliance or a failure to comply with a CPN or a fixed penalty notice.

The Council’s decision on what level of enforcement action is necessary will take into account:

- **The risk/impact/severity of the offence.** We will be more likely to prosecute where the breach of condition has resulted in a serious environmental impact and/or impact on public safety.
- **Intent of the offender.** We will be more likely to prosecute where the offender knows that a course of action – whether of commission or omission – is likely to lead to a contravention of the law, but chooses to follow that course of action nonetheless.
- **History of offending.** We will be more likely to prosecute where we have evidence of a history of offences, even if these offences are not the subject of legal proceedings.
- **Principles.** In considering whether to instigate prosecution proceedings, regard will be had to the principles laid down in *The Code for Crown Prosecutors*.

The use of proportionate enforcement can also act as an effective deterrent to repeat offending and help to deter others from committing offences which cause damage to local environmental quality.

4. Fixed Penalty Notices

The Council will issue a fixed penalty notice for any of the following environmental offences in line with national guidance:

Table 2: Environmental Offences

Offence	Legislation	Full Penalty	Discounted Penalty (if paid within 14 days)	Maximum Penalty on Conviction
Littering	Section 87/88 (1) Environmental Protection Act 1990	£80	£50	£2,500
Graffiti	Section 43/44 Anti-social Behaviour Act 2003 as amended	£80	£50	£2,500
Fly-posting	Section 43/44 Anti-social Behaviour Act 2003 as amended Section 34 Clean Neighbourhoods and Environment Act 2005	£80	£50	£2,500 - £20,000
Dog Fouling	Section 67 Anti-social Behaviour, Crime and Policing Act 2014	£75	£50	£1,000
Breach of or failure to comply with a CPN	Section 52 Anti-social Behaviour, Crime and Policing Act 2014	£100	£75	£2,500
Failure to produce waste documentation	Section 34 Environmental Protection Act 1990	£300	£150	£5,000 - unlimited
Fly-tipping	The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016	£200 (small)	£150 (small)	Unlimited and/or up to 5 years in prison
		£400 (large)	£300 (large)	

NB. 'Small' is 1 cubic metre or less in volume; 'large' is over 1 cubic metre in volume.

There are no formal grounds of appeal against a fixed penalty notice. This is because a fixed penalty notice is an invitation for the offender to discharge their liability to prosecution by payment of the full amount of the penalty. In essence, this means that whilst this is not an admission of their guilt, they do agree that an offence has been committed and that by paying the sum of money specified that no further action will be taken by or on behalf of the Council.

If the offender does not agree that an offence has been committed and they do not pay the fixed penalty notice within the time allowed, a summons will be issued against them and the case will be heard in the Magistrates' Court. If convicted, they could be fined and be ordered to pay the costs of the prosecution.

5. Use of Income

The Council will use the income received from fixed penalty notices on the following functions:

Table 3: FPN Income

Offence	FPN income can be spent on functions relating to:
Littering, graffiti, fly-posting	Litter and refuse (including keeping land and highways clear of litter and refuse, and enforcement against littering and littering from vehicles), graffiti and fly-posting
Failure to produce waste documentation	Waste on land
Fly-tipping	No restrictions

Under no circumstances will the Council use fixed penalty notices for these offences as a means to generate income.

6. Prosecutions

Where there is sufficient evidence, and the public interest test is met, the Council will normally prosecute in any of the following circumstances taking into account *The Code for Crown Prosecutors*:

- Serious or prevalent offences with significant actual or potential impacts on the environment and/or public safety;
- Failure to comply with a CPN;
- Failure to discharge liability to conviction by payment of a fixed penalty notice within specified timescales;
- Failure to supply information without reasonable excuse or knowingly supplying false or misleading information; or
- The offender has previously been issued with a fixed penalty notice for the same offence.

Where a company is involved, it will be usual practice to prosecute the company. However, where individuals have caused offences, then we will consider prosecuting those individuals. The Council will also consider the part played in the offence by directors and managers, and action may be taken against such persons if appropriate.

Where an offence is of special gravity, the Council will consider requesting magistrates to refer the case to the Crown Court, where appropriate.

7. Public Information

The Council strongly believes that public information about enforcement is important to maintain confidence in the regulatory system and to impress on others the gravity with which the Council regards offences. It will therefore be our policy to give factual information about prosecutions to the media and to publish such information on the Council's social media sites.

8. Complaints

If you are not satisfied with any aspect of the Council's enforcement action, then please contact us:

By post

Streetscene Team
Stratford-on-Avon District Council
Elizabeth House
Church Street
Stratford-upon-Avon
Warwickshire
CV37 6HX

By phone

01789 267575

By email

streetscene@stratford-dc.gov.uk

Website

Using the online form found on the Council's website at
www.stratford.gov.uk/online-forms/complaint-form.cfm/graphics/1

Any complaint will be investigated and we will send you a response within 15 working days. If you are not satisfied with the response, you have the right to ask for the outcome to be reconsidered through the Council's formal complaints procedure. Further information about the Council's formal complaints procedure can be found on the Council's website at www.stratford.gov.uk/council-democracy/how-to-complain.cfm/graphics/1