



Environmental Enforcement Policy

Community Safety & Support

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Introduction

Keeping the New Forest clean and safe – our commitment to you

The council is committed to keeping our towns, villages, and countryside clean, safe, and pleasant for everyone who lives, works, and visits here. We take pride in maintaining public spaces, tackling litter, and addressing other environmental issues that affect the quality of life in our communities.

Like all councils in England, we have powers that allow us to enforce laws designed to protect both individuals and the wider community. These powers help us respond to issues such as fly-tipping, dog fouling, graffiti, and other forms of environmental damage, ensuring that our district remains a great place to live.

This activity is set within the following legislation:

- Environmental Protection Act 1990 (as amended)
- Clean Neighbourhoods and Environment Act 2005
- Refuse Disposal (Amenity) Act 1978
- Town and Country Planning (Control of Advertisement) Regulations 1990 (as amended)
- Criminal Justice and Public order Act 1994
- Anti-Social Behaviour Act 2003 (as amended)
- Anti-Social Behaviour, Crime and Policing Act 2014
- Environment Act 1995
- Environment Act 2021
- Control of Pollution (Amendment) Act 1989

This document sets out the enforcement policy of New Forest District Council and how the council uses legislation and powers to ensure an effective,

consistent and clear approach to environmental enforcement. It covers offences including but not limited to:

- Littering
- Fly-ipping
- Failure to produce authority (certificate of registration) to transport controlled waste
- Failure to produce waste transfer notices
- Abandoned vehicles

For the purposes of this policy, 'enforcement' refers to the actions undertaken by council officers to prevent, investigate, and respond to breaches of legislation.

This policy establishes the overarching principles and approach that the council will apply in fulfilling its role as the enforcing authority for environmental legislation.

The council is committed to promoting compliance through prevention rather than enforcement wherever possible. We believe that proactive engagement, education, and guidance are the most effective means of achieving positive environmental outcomes. Accordingly, the council will provide clear information and practical advice to those it regulates, supporting responsible behaviour while minimising unnecessary bureaucracy and cost.

All individuals and businesses (referred to as 'Duty Holders' are expected to act responsibly and take ownership of activities that may impact the environment.

The Council ensures that all appointed officers are appropriately trained and competent in applying this policy effectively.

Background

Current enforcement

The Clean Neighbourhoods and Environment Act 2005 expanded the range of offences for which Fixed Penalty Notices (FPNs) can be issued and broadened the scope of individuals authorised to issue them. This was further strengthened by the Anti-Social Behaviour, Crime and Policing Act 2014.

FPNs provide a cost-effective and proportionate means of addressing low-level environmental offences within the district. They serve not only as a deterrent but also support the council's aim to educate the public and promote responsible behaviour.

The introduction of FPNs as a tool to tackle littering through the issuing of fines, contributing to a cleaner, safer, and greener environment. This approach also supports the wider goal of fostering a successful local economy.

Ultimately, the policy aims to encourage individuals and businesses, previously referred to as "duty holders" to take greater responsibility for their actions, promoting positive behaviour for the benefit of the entire community.

The principles of enforcement

The council is committed to enforcing environmental legislation in a firm but fair manner. This approach is guided by key principles:

- proportionality in applying the law and achieving compliance
- consistency in enforcement practices
- targeted action based on risk and impact
- transparency in how enforcement is carried out
- what regulated parties can expect
- accountability for the council's decisions and actions.

These principles underpin both individual enforcement decisions and the overall management of enforcement activities.

Proportionality

Proportionality, in the context of enforcement, means aligning the action taken with the level of risk posed to public health and the environment. The Council recognises that both those protected by the law and those subject to its duties expect enforcement responses to be appropriate to the seriousness of the breach, including any actual or potential harm caused.

In practice, this means the council will consider how significantly an individual or business has failed to meet legal requirements, and the extent of the risk resulting from that failure. Some legal duties are absolute, while others require action that is reasonably practicable. The principle of proportionality will be applied in both cases.

Enforcement activity will therefore reflect the level of risk to the public and environment, with the type and severity of action proportionate to the nature and seriousness of the offence.

Targeting

Targeting, in the context of enforcement, means focusing regulatory efforts on those whose activities present the greatest risk through serious or persistent non-compliance. Enforcement action will be directed primarily at breaches and at those individuals or organisations most responsible for the risk and best positioned to manage it.

Where multiple parties are involved in a breach, the Council may take action against more than one, where appropriate and in line with this policy. This may include businesses, residents, or visitors to the district.

To ensure oversight and accountability, records pertaining to the issuing of warnings, fixed penalty notices, or prosecutions are maintained and reviewed by the Environmental Enforcement Senior Supervisor and Service Manager.

Consistency

Consistency of approach means applying similar enforcement responses in comparable circumstances to achieve fair and predictable outcomes. It does not imply uniformity, but rather a balanced and reasoned application of the law.

Individuals and businesses engaged in similar activities can expect the Council to take a consistent approach in the advice provided, the use of enforcement notices, decisions regarding prosecution, and responses to incidents and complaints.

The council acknowledges that consistency in practice involves careful consideration of various factors, including the level of risk, the attitude and cooperation of those involved, any history of non-compliance, previous enforcement actions, and the seriousness and persistence of the breach, including cumulative impacts.

Transparency

Transparency means ensuring that individuals and businesses understand what is expected of them, and what they can expect from the Council. This includes clearly distinguishing between statutory requirements and non-mandatory advice or guidance, helping people to comply with the law while recognising best practice.

It is equally important that those regulated know what to expect from council officers, including their rights to raise concerns or complaints. This aligns with the council's policies and procedures, and the standards expected of officers in the conduct of their duties.

When visiting a business or individual, officers will:

- Provide clear information or advice—whether face-to-face or in writing—including any warnings.
- Explain what actions are required to comply with the law and the reasons behind them.
- Confirm advice in writing upon request, clearly distinguishing between legal obligations and best practice recommendations.

In cases where a Fixed Penalty Notice (FPN) is issued, the officer will explain the notice, including payment methods. The notice will detail the offence, date and time (where known), reason for issue, and the legislation believed to have been breached.

Accountability

Regulators are accountable to the public for their actions and as such enforcement action is open to public scrutiny. This means that New Forest District Council has accessible policies and standards including a complaints procedure. [Feedback, comments and complaints - New Forest District Council](#)

The purpose and method of enforcement

The council's environmental compliance and enforcement function exists to ensure that legal requirements relating to environmental protection are met. This is achieved through a balanced approach that combines proactive interventions with responsive enforcement. The council investigates complaints and reports of non-compliance as outlined within this policy and uses enforcement tools to secure compliance and remedy harm.

The purpose of enforcement is to:

- Ensure individuals and businesses take prompt action to address failures in meeting their legal duties.
- Promote and sustain long-term compliance with environmental legislation.
- Hold those who breach legal requirements accountable, including, where appropriate, through prosecution.

The council has a range of enforcement tools at its disposal to ensure a proportionate response to non-compliance. Officers may provide advice and guidance either in person or in writing, which may include informal warnings. Where necessary, they may issue Fixed Penalty Notices (FPNs), or when deemed appropriate, refer cases for prosecution.

Action taken may include:

- Proactive measures, such as providing advice and issuing informal warnings.
- Formal interventions, including the service of statutory notices, fixed penalty notices (FPNs); and
- Legal proceedings, such as prosecutions, where deemed appropriate.

Officers will investigate the circumstances of each case, whether arising from proactive work, incidents, or complaints. The level of resources allocated to an investigation will be guided by the principles outlined in this policy and the council's strategic objectives. Each case will be assessed on its individual merits.

The council retains discretion in determining whether to investigate and what enforcement action is appropriate. Officers will apply this policy and related guidance, making decisions in accordance with the Enforcement Concordat and the Regulators' Code under the Legislative and Regulatory Reform Act 2006 **Regulators' Code - GOV.UK**. In cases where differing views arise, the matter will be reviewed and a final decision made by the Service Manager for Community Safety & Support.

Following the exhaustion of any informal methods, any proposed formal enforcement action involving prosecution must be supported following a review by the Service Manager, once approved by the Service Manager, the matter will be submitted for further review to Legal Services for the formal authorisation of prosecution.

All officers of the council must adhere to this policy and its accompanying guidance when making enforcement decisions. While enforcement policies are considered guidance rather than law, it is recognised best practice to follow them unless there is a clear and justified reason not to.

CCTV

To support the objectives of preventing, deterring, and any subsequent investigation of fly-tipping incidents, the council may deploy CCTV, static or fixed image cameras at locations identified as fly-tipping hotspots.

The cameras will:

- Act as a visible deterrent to discourage offenders.
- Capture footage of evidential quality showing individuals and vehicles involved, for the issuing of Fixed Penalty Notices (FPNs) or for the pursual of prosecutions under relevant legislation.

The use of CCTV will contribute to:

- Environmental protection
- Public health
- Community wellbeing and reassurance

Appropriate signage and warnings will be displayed, and all footage will be retained, accessed, and used in accordance with the council's overarching CCTV Policy, ensuring compliance with:

- UK GDPR and Data Protection Act 2018
- Surveillance Camera Code of Practice
- Council's data retention schedule
- Objectives of the council's surveillance camera systems
- NFDC RIPA Policy

Investigation

The council exercises discretion when deciding whether to investigate incidents, complaints, or cases. This decision is based on an assessment of risk, the potential breach of legislation, and the seriousness of the issue.

Investigations are carried out to:

- Identify the causes of non-compliance, and any perpetrator
- Determine whether action has been taken or is needed to prevent recurrence and ensure legal compliance
- Extract lessons to inform future guidance and policy
- Decide the appropriate response to any breach of the law.

To maintain a proportionate approach, the council prioritises its investigative resources towards the most serious cases. It is recognised that not all instances of non-compliance, whether identified through proactive work or reported events require formal investigation.

When selecting which complaints or reports to investigate, and determining the level of resources to allocate, the council considers the following factors:

- The severity and scale of actual or potential harm to individuals or the environment.
- The seriousness of the suspected legal breach.
- Any history of non-compliance by the individual or business.

- The council's enforcement priorities.
- The feasibility and effectiveness of taking action.
- The broader significance of the incident, including public concern.

No action

In exceptional circumstances, the council may determine that no enforcement action is warranted. This decision is typically made where the cost of compliance to the offender significantly outweighs the impact of the contravention, or where the responsible party such as a trader has ceased trading. All decisions to take no action will be documented, including the rationale and decision-making process.

Even in cases where a breach has been informally remedied, officers are expected to follow up in writing. This reinforces the educational aspect of enforcement and helps prevent recurrence by clearly outlining expectations and standards.

Authorisation of officers

Before carrying out any enforcement duties, officers of the Council must be formally authorised in line with the council's delegated authority and relevant legislation. Authorised officers are issued photo identification cards confirming their identity and role. Authorisation is granted under delegated powers set out in the council's scheme of delegation, ensuring that only suitable and competent individuals undertake enforcement functions on behalf of the council.

In addition to completing mandatory training provided through the council's central training programme, officers also receive service-specific training. To ensure investigations, interviews, and evidence gathering are conducted to a high standard and in full compliance with legal requirements, officers undertake specialist training in PACE (Police and Criminal Evidence Act).

Powers of entry

New Forest District Council officers are authorised to exercise powers of entry into business and residential premises in accordance with legislative requirements. These powers are primarily derived from the Environmental Protection Act 1990 and the Environment Act 1995.

Under the Environmental Protection Act 1990, authorised officers may enter premises at reasonable times to investigate statutory nuisances or carry out necessary actions. Entry to residential premises generally requires 24 hours' notice unless in cases of emergency or where a warrant is obtained.

Obstruction of officers

The council enforces environmental legislation under powers that include the authority to request personal details and to enter premises, as permitted by law.

Under section 88(8A) and (8B) of the Environmental Protection Act 1990 makes it an offence to refuse to give, or to give false or inaccurate, name and address details when an officer proposes to issue a Fixed Penalty Notice (FPN) for littering. These provisions are enforceable with police assistance where necessary, to ensure compliance at the earliest opportunity.

Authorised officers may also exercise powers of entry under environmental legislation, primarily the Environmental Protection Act 1990 and the Environment Act 1995. These powers are subject to safeguards, including adherence to the Code of Practice: Powers of Entry issued under the Protection of Freedoms Act 2012, which ensures that such powers are used proportionately, with respect for individual rights and minimal disruption.

The council considers any obstruction of, or assault (whether physical or verbal) on, its officers while lawfully carrying out their duties to be a serious matter. All such incidents will be reported to senior management and may result in legal proceedings. Threats or assaults against officers will not be tolerated under any circumstances and referred to Police.

Enforcement options

The council has a range of enforcement options available, which include:

Informal

Advice and guidance

Officers will seek to help individuals, existing and prospective businesses and other organisations to comply with legal obligations. This will be achieved by providing information and guidance to help resolve potential problems.

Informal warnings

Informal warnings may be issued to reinforce advice and guidance where minor breaches of the law have been discovered but where it was thought appropriate to not take formal action. These warnings can be verbal or written. Follow-up visits may be made to ensure that steps have been taken to rectify the problem. Warnings issued in respect of significant breaches of legislation will include time scales within which the breaches should be rectified and will always result in follow-up visits to ensure compliance.

Formal

Statutory notice

Some legislation provides for the service of statutory notices, which require a person, business or organisation to comply with specific legislation. The notice will explain what is wrong, what is required to put things right, the timescale in which to put things right, and what will happen if the notice is not complied with. In some circumstances, where a formal notice has been served, there may be a right of appeal against the council's decision. In such cases, an explanation of the method of appeal will be provided at the time the notice is issued. In general, it is the council's policy to either formally caution or prosecute individuals, business, or organisations who do not comply with a properly written and served statutory notice.

Fixed Penalty Notice (FPN)

FPNs can be issued for certain offences and allow individuals or businesses to discharge their liability for an offence, avoiding prosecution and a criminal record. Issued only when an offence has been committed, an FPN is a proportionate response where there is evidence to support prosecution if the offender fails to pay the fixed penalty. Payment of the FPN prevents any further action; no record of the FPN is kept except by the Council for up to three years. There is no formal appeal process for a FPN.

If you disagree that you have committed an offence, you can decide not to pay the Fixed Penalty fine, and the matter will be decided by a court. The council will take all appropriate steps to ensure that penalties are collected efficiently, including any additional costs incurred through non-payment and escalation to recovery through the courts or appointed bailiffs.

Prosecution

The council will use discretion in deciding whether to initiate a prosecution and generally will only bring proceedings when it is considered to be in the public interest. A decision to prosecute will only be taken when there is sufficient evidence for a realistic prospect of conviction and will take into account any statutory defence available to the defendant and any contributory factors which may preclude a successful prosecution. The decision to prosecute will always take into account the criteria laid down in the Code for Crown Prosecutors. Advice will be sought from the council's Legal Team.

The council is committed to ensuring that enforcement decisions are consistent, balanced, and fair. These decisions are guided by both local and national standards and supported by internal guidance designed to promote consistency across cases and officers.

Written warning and advice

For certain contraventions, the council may issue a letter to the offender with details of the nature of the breach, provide guidance on how to rectify it, and specify a deadline for compliance. Failure to comply within the given timeframe may result in formal enforcement action, including the service of a statutory notice. Informal action may be considered appropriate when:

- The individual or business has a good history of compliance.
- The contravention is not serious enough to warrant formal action.
- There is confidence in the individual's or management's willingness to comply.
- The non-compliance does not pose a significant risk to public health or the environment.

While informal advice and warnings cannot be cited in court as previous convictions, they may be presented as evidence to demonstrate a pattern of behaviour or prior opportunity to comply.

Prosecution

When determining whether to pursue prosecution, the Council will act in full accordance with the Code for Crown Prosecutors, issued by the Director of Public Prosecutions. This code requires that two key tests are satisfied before any prosecution can proceed.

The evidential test

There must be sufficient evidence to provide a realistic prospect of conviction.

The council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction.

This means:

- The evidence must be admissible, reliable, and credible.
- Consideration given to the likely defence case and how it could affect the prosecution.
- A "realistic prospect of conviction" is an objective test:

- Importantly, this is different from the criminal court standard, which requires being sure of guilt beyond reasonable doubt. If a case does not pass the evidential stage, it will not proceed, regardless of seriousness or sensitivity.

The public interest test

It must be in the public interest to prosecute.

Key factors considered but not limited to:

- Seriousness of the offence – The more serious the crime, the more likely prosecution is in the public interest.
- Culpability of the suspect – Including intent, role, and level of responsibility.
- Impact on any identified victim or community – Harm caused and need for reassurance.
- Environmental harm to the Community- including secondary and ongoing risks.
- Age and maturity of the suspect – Particularly relevant for young or vulnerable individuals.
- Proportionality – Whether prosecution is proportionate to the likely outcome and resources involved.
- Likelihood of re-offending – To protect the public and prevent future harm.

Criminal proceedings will be directed at those responsible for committing the offence. Where an offence involves a company, it is standard practice to prosecute the company if the offence arises from its activities. In addition, the Council will consider the involvement of individuals within the organisation—such as Directors, Managers, or the Company Secretary—and may take action against them where the offence was committed with their consent, connivance, or as a result of their neglect.

Prosecution is generally reserved for cases involving:

- Flagrant breaches of the law that pose a risk to public health, safety, or well-being.
- Failure to address serious risks after being given a reasonable opportunity to comply.
- Failure to comply with a statutory notice issued under the Environmental Protection Act 1990.
- Failure to comply with a notice issued under section 5 of the Control of Pollution (Amendment) Act 1989
- A history of similar offences.
- Offences likely to result in cumulative harm to the district (e.g., fly-tipping that may encourage further incidents, and impacts on Public Sector Budgets).

This list is not exhaustive. Each case will be assessed on its individual merits to ensure a fair, consistent, and objective decision. Suspected offenders will be given an opportunity to provide an explanation before proceedings commence, unless circumstances dictate otherwise.

Before recommending prosecution, officers must ensure that:

- The evidence is relevant, substantial, and reliable.
- An identifiable person or company has committed the offence.
- There is a realistic prospect of conviction—mere prima facie evidence is insufficient.
- Prior to referral to Legal Services, the case must be reviewed by the Service Manager. Once approved by the Service Manager, the matter will be submitted for further review to Legal Services for the formal authorisation of prosecution.
- Where prosecution is pursued, the council will seek to recover all associated costs, including those incurred during investigation and legal proceedings.

Seizure

The council has the legal power to seize vehicles, trailers, mobile plant, and their contents when they are suspected of being used in connection with waste-related offences. These powers are granted under:

- Section 5 of the Control of Pollution (Amendment) Act 1989
- Section 34B of the Environmental Protection Act 1990

Courts also have the authority to order the **forfeiture** of vehicles following a successful prosecution.

Grounds for seizure or forfeiture

A vehicle may be seized or forfeited if it is:

- Used in fly-tipping or illegal waste dumping.
- Driven by someone not registered as a waste carrier.
- Used to transfer waste to an unregistered waste carrier.
- Operated at a site that is breaching environmental permit conditions

Seizure notice requirements

Once a vehicle is seized, the council must:

- Publish a seizure notice within one working day.
- Display the notice for at least 15 days on the council's website or in a local newspaper.
- Notify the police and the registered keeper in writing.

The notice must include:

- A description of the vehicle and its registration.
- The date, time, and location of the seizure.
- Contact details and instructions for claiming the vehicle.
- The legal basis for the seizure.
- What will happen if the vehicle is not claimed (e.g. sale or destruction).

Claiming a seized vehicle

To claim a seized vehicle, the claimant must be the legal owner and provide:

- The V5C registration document in their name and current address.
- A valid motor insurance certificate in their name and current address.

If further proof is required:

- The council will notify the claimant within one working day.
- Additional documents must be submitted within two working days.
- A decision will be made within three working days.

Collection and disposal

Once a vehicle is successfully claimed:

- The owner has 10 working days, following the claim, to collect it.
- If not collected within this period, the vehicle may be sold or destroyed.

Costs associated with the storage of the vehicle are required to be paid by the registered keeper prior to the release of the vehicle. If a vehicle is not claimed at all within 15 working days following seizure, it may be sold or destroyed, subject to legal proceedings. Disposal or sale will not occur when prosecution is being pursued until there is a final case outcome. In other cases, the matter will be referred to the council's legal department for assessment of further action.

Conflict of interest

Where investigating enforcement action involving the enforcing authority itself, or it involves the activities related to an employee or Member of the council, then the Chief Executive or Section 151 officer will be informed of serious breaches without delay or in cases where formal action is being considered. The council's Constitution contains the Members' Code of Conduct and the Employees' Code of Conduct which cover the conduct of Members and Officers including declaration and conflicts of interest.

Publicity

Criminal convictions are part of the public record, and it is a widely accepted principle that such information should be accessible. The council may therefore publish details on its website about companies and individuals convicted within the past 12 months, to raise awareness of the consequences of failing to comply with relevant legislation.

Additionally, the council will publish anonymised data on the number of fixed penalty notices issued during the same period.

Partnership working

This policy is built on strong collaborative relationships. We aim to work closely with the following partners to support its delivery:

- Hampshire & Isle of Wight Constabulary
- Forestry England
- National Park Authority
- Town & Parish Councils
- Hampshire County Council
- Verders of the Forest
- Key landowners and Stakeholders

Storing and disclosure of information

Information gathered during enforcement activities will be securely stored in paper and/or digital formats, in line with legal retention periods or service needs. This includes records of enforcement decisions.

The identity of individuals reporting offences will remain confidential unless they consent to disclosure, or it is required by law or court order.

All personal data will be managed in accordance with the UK General Data Protection Regulation (UKGDPR) and Data Protection Act 2018 and the council's data protection policies. Information may be shared with other council services, the police, or enforcement agencies for the prevention or detection of crime, in line with relevant legislation and information-sharing protocols.

Requests for access to information will be handled under the Freedom of Information Act 2000 and Environmental Information Regulations 2004.

Complaints

Any complaint should be raised under the council's corporate complaints procedure

Feedback, comments and complaints - New Forest District Council

For clarity, the corporate complaints procedure cannot be used to dispute whether or not an environmental offence was committed. It is the process where feedback or complaints about the council's officers or administrative processes can be raised.

Appeals

There is no formal appeal process for Fixed Penalty Notices. If a dispute arises, the individual may be invited to attend an interview under caution, in accordance with the Police and Criminal Evidence Act. Failure to pay may result in prosecution.

The Service Manager may cancel a notice only if it was issued in error.

Monitoring and review

This policy will be reviewed within two years of implementation to assess its effectiveness and identify areas for improvement. The review will also consider any new powers granted to local authorities for managing environmental quality.

Key performance indicators will include:

- Reduction in fly-tipping
- Increased resident satisfaction with district cleanliness
- Decrease in abandoned vehicles
- Analysis of Fixed Penalty Notices (issued, cancelled, and payment rates)
- Review of complaint statistics

Amendments to this policy

This policy may be amended at any time, for example, in response to new Government guidance. Minor changes that align with the overall intent of the policy will be added as an amendment document, rather than reissuing the full policy.

Appendix 1

Definitions of environmental offences and legislation

Fly-tipping

Fly-tipping does not have a single, precise legal definition beyond the offences outlined in Section 33 of the Environmental Protection Act 1990, which refers to the illegal disposal of controlled waste.

According to the Litter and Refuse Code of Practice published by DEFRA in 2006, a single plastic sack of rubbish is generally considered fly-tipping rather than littering.

Waste duty of care (domestic and commercial)

The Duty of Care legislation, under Section 34 of the Environmental Protection Act 1990, sets out legal responsibilities for the safe management of waste to protect both human health and the environment.

This duty applies to anyone who imports, produces, carries, keeps, treats, disposes of, or acts as a dealer or broker in relation to controlled waste.

Under Section 34(2A), occupiers of domestic properties in England and Wales are legally required to:

Take all reasonable measures available to them to ensure that any household waste produced on their property is only transferred to an authorised person or someone acting for authorised transport purposes.

This requirement aims to prevent waste from being passed to individuals who may fly-tip or dispose of it illegally.

Household waste includes any waste produced within a domestic property, such as:

- Building waste
- General black bin waste
- Bulky items (e.g. mattresses, furniture)

- Electrical appliances
- Garden waste

If multiple people live in the property, the duty of care applies to the individual occupier who arranges the waste transfer.

Failing to meet this duty is a criminal offence. Offenders may face:

- Prosecution
- A fine
- A criminal record

However, local authorities may issue a Fixed Penalty Notice (FPN) as an alternative to prosecution. Paying the FPN within the specified period (usually 14 days) discharges liability, meaning the individual cannot be prosecuted for that offence.

All businesses in the UK have a legal obligation to manage their waste responsibly. This duty is not optional and is set out in Section 34 of the Environmental Protection Act 1990.

Businesses must ensure that all waste they produce is:

- Stored securely
- Handled safely
- Transferred only to authorised waste carriers
- Disposed of or recovered in accordance with environmental regulations.

Every business must maintain records of its waste management arrangements for at least two years. This includes:

- Waste Transfer Notes (WTNs) for each load of non-hazardous waste removed from the premises.
- A Duty of Care Certificate or equivalent documentation containing the same information.

These records must:

- Be signed by both the business and the waste carrier.
- Include details such as the type, quantity, and origin of the waste.

- Be available for inspection by local authorities or the Environment Agency upon request.

Waste Carrier Authority

The Control of Pollution (Amendment) Act 1989 establishes a clear legal obligation for all waste carriers to demonstrate their authority to transport controlled waste when requested by an authorised officer.

Legal requirement:

- It is an offence to fail to produce evidence of registration (a valid waste carrier licence) upon request by an authorised officer.
- This requirement applies to any person or business transporting controlled waste without being registered or failing to provide proof of registration.

Acceptable proof of authority:

- A valid Waste Carriers Licence issued under the waste (England and Wales) Regulations
- Carriers must carry this documentation or be able to provide it promptly when requested.

Offences and Enforcement

Failure to produce a waste carrier licence constitutes an offence under sections 5 and 5B of the Act.

Enforcement options include:

- Fixed Penalty Notice (FPN) for non-compliance.
- Prosecution, with a maximum penalty of an unlimited fine upon conviction in the magistrates court.

Local authorities and the Environment Agency have powers under Sections 5A-6 to seize vehicles involved in illegal waste transport.

Waste receptable notice

Under Section 46 of the Environmental Protection Act 1990, local authorities have the power to set requirements for how household waste must be stored and presented for collection. When residents fail to comply and their actions cause or are likely to cause a nuisance or negatively affect local amenities, councils may take enforcement action.

S.46 (6) provides the basis for enforcement of any breach of a s.46 Notice.

If a person, without reasonable excuse, fails to comply with a s.46 Notice they may be liable to enforcement action.

In order to take enforcement action, an authorised officer of the council must be satisfied that a person has failed without reasonable excuse to comply with a requirement imposed AND that failure has;

- (i) caused, or is or was likely to cause, a nuisance, or
- (ii) (ii) has been, or is or was likely to be, detrimental to any amenities of the locality.

The council therefore has the power to follow an enforcement process that may result in the issuing of fixed penalty notice for the following reasons:

- Contamination of waste and recycling containers with the wrong materials
- Waste containers left on the public highway outside of the scheduled collection day
- Uncontained waste or additional/side waste left on the highway

If the council is carrying out enforcement steps, the following is a summary of the process that must be taken by the council:

Written warning / waste advisor visit

Issue of written warning explaining:

- identify the section 46 requirement with which the person has failed to comply
- how this has (or is likely to) cause a nuisance or have a negative effect on local amenities

- what they must do and how long they've got to fix the problem
- what will happen if they don't comply

Notice of Intent

Before requiring payment of a fixed penalty notice an authorised officer must serve on the person notice of intent addressed to the occupier by name stating:

- If they continue to default, they may get a fixed penalty and why
- How much they'll have to pay
- that they have the right to explain why they shouldn't have to pay the penalty within 28 days of the day of service.

Final Notice

A final notice must be served before the FPN, 28 calendar days after service of the Notice of Intent. An authorised officer must consider any representations and take a formal decision to issue a FPN before taking this step.

The notice must name the occupier and tell them:

- Why they have been given a fixed penalty
- How much they must pay (maximum full penalty set by our Policy) and how they can pay it
- The deadline for the payment what happens if they pay the penalty early, and if there's a discount for early payment
- what happens if they do not pay
- how they can appeal

This approach ensures enforcement is proportionate, targeting persistent non-compliance while allowing residents the opportunity to correct issues and seek support if needed.

Litter

Under Section 87, Environmental Protection Act 1990, a person commits the offence of littering if they:

Throw down, drop, or otherwise deposit any item in a public place and leave it behind.

This applies to:

- Any area open to the air where the public has access without payment.
- Covered places that are open on at least one side and accessible from a public highway.

The offence is complete only when the item is both deposited and left meaning the person walks away or abandons it.

Examples of litter but are not limited to:

- Sweet wrappers, drinks containers, cigarette ends, chewing gum
- Till receipts, food packaging, and other small, discarded items

Larger items, such as black bin bags, are typically classified as fly-tipping, which is a more serious offence.

Abandoned vehicles

Under Section 2 of the Refuse Disposal (Amenity) Act 1978, it is a criminal offence to:

- Abandon a motor vehicle or any part of a motor vehicle on a highway or any land in the open air without lawful authority. This includes trailers intended or adapted for use with a motor vehicle

There is no fixed legal definition of an abandoned vehicle. Instead, local authorities assess abandonment based on a combination of factors, including:

- No current vehicle tax or MOT
- No registered keeper on DVLA records
- Vehicle has been stationary for a long time
- Significant damage, missing parts, or signs of neglect

- Flat tyres, broken windows, or mould
- Burnt out or vandalised
- Missing number plates
- Contains waste or rubbish.

Authorities use discretion and must be satisfied that the vehicle is genuinely abandoned before taking action.

The council is under a duty to remove an 'abandoned' vehicle on any land in the open air, and can recover the costs of removal, storage, or destruction from the owner.