

# Environmental Enforcement Policy

Appendix 1

*March 2015*

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## Introduction

Croydon Council is committed to maintaining a clean and safe environment for the benefit of everyone in the borough. This commitment recognises our responsibility to keep the streets and local environment clear of litter, obstructions and deal with other local environmental quality issues. The presence of dumped waste, litter, dog fouling, graffiti and other environmental crime detracts from the image of the area and can have an adverse impact on inward investment as well as being a potential health and safety issue and contributing to perceptions and fear of crime.

This policy highlights the Council's responsibility to maintain a clean environment for all but recognises that this cannot be achieved without the support of the local community and the need for people to take personal responsibility for their actions in this area. Plans are now in place to increase the focus on enforcement activity to minimise the harmful impacts on the environment and strive to create a cleaner, greener and safer place to live and work.

Along with all other local authorities in England, Croydon Council has extended powers to enable enforcement of legislation intended to protect both the individual and the community as a whole. The enforcement function plays a vital role in maintaining a clean and safe environment by providing information and advice to individuals regarding the law, regulations and duties. It also, as a last resort, takes enforcement action to challenge anti-social behaviour and to ensure that those individuals and/or businesses that spoil the environment for others are made accountable for their actions. It is also responsible for dealing with environmental crime and the effects of anti-social behaviour.

The Council's Environmental Enforcement teams are responsible for exercising some of the powers under the following legislation in Croydon with regard to the general street environment:

- Environmental Protection Act 1990 (as amended)
- Clean Neighbourhoods and Environment Act 2005
- Highways Act 1980
- Refuse Disposal (Amenity) Act 1978
- London Local Authorities Act(s) 1995 - 2007
- Town and Country Planning Act 1990 (as amended)
- Greater London Council (General Powers) Act 1982
- Criminal Justice and Public Order Act 1994
- Anti-social Behaviour Act 2003 (as amended)
- Anti-Social Behaviour Crime and Policing Act 2014
- Miscellaneous legislation relating to the powers and duties of the council as a Litter Authority, Highway Authority and Local Authority in relation to activities on and protection of the public highway

A useful tool is the fixed penalty notice (FPN), which is a financial penalty that officers can issue directly to offenders once their offence has been

established. Payment of the FPN discharges the offender from any consequent legal action regarding the offence. However if the FPN isn't paid then the offender may face legal proceedings.

This Policy sets out how we will use these powers to ensure an effective, consistent and clearer approach to street environment enforcement.

### **Aim of policy**

To support the Council's commitment to Croydon becoming the cleanest, greenest Borough in London. This policy will help us achieve our objective by providing the framework to:

- Raise awareness of effective waste management, litter control, dog control, reduction of highway obstructions and other local environmental quality issues across the borough.
- Educate residents, businesses and visitors about their relevant duties and responsibilities in terms of effective waste management, litter control, dog control, noise offences, highway obstructions and other local environmental quality issues and what constitutes an offence.
- Undertake any enforcement action as necessary in a reasonable, equitable and proportionate manner.

Croydon Council adopted the Enforcement Concordat in 1998 which states that good enforcement practice should have clear standards, be carried out in an open, helpful manner, have a proportionate and consistent approach and deal effectively with complaints about service. This approach will ensure that:

- We are fair and equitable in the way we carry out enforcement;
- We assist businesses and others in meeting their legal obligations;
- We focus on prevention rather than cure;
- We take firm action against those that flout the law;

### **Scope of policy**

The scope of this policy covers waste and local environmental quality issues experienced across the borough on both public and private land. These issues affect the environmental, social and economic well being of the borough, add to peoples' fear of crime and so have a major impact on the quality of life of those who live in, work in and visit Croydon.

All of the issues highlighted in this policy are of great importance to maintaining a clean and safe environment. We seek however, to prioritise work on certain issues in order to approach enforcement work in a structured way, targeting the most prevalent issues affecting Croydon's environment. In particular the current priority areas are:

- Irresponsible dog ownership;
- Domestic waste bags dumped on streets out of collection times;
- Commercial waste bags left on streets without proper arrangements or out of collection times;

- Fly tipping and illegal dumping of waste on public and private land;
- Litter in high street areas, other highways and private land;
- Graffiti and fly posting on public or private buildings or structures;
- Highways obstructions
- Requirements to minimise waste and maximise recycling.

It is the responsibility of every business and individual to comply with the law and it is recognised that most want to do so. The Council's environmental enforcement officers are responsible for providing help and assistance for this purpose and for taking action against those who do not meet their responsibilities. The purpose of this policy is to explain how the Council will fulfil this role.

Where people break the law we will take enforcement action against them.

This will include:

- Dropping litter or allowing litter to accumulate on land;
- Dumping waste in public areas;
- Not making proper arrangements for the disposal of commercial waste;
- Letting a dog foul and not clearing it up;
- Failing to comply with notices issued by the Council to rectify environmental infringements;
- Failing to rectify Highways Obstructions notified by the Council
- Not using appropriate containers for waste/recycling.

We will reserve the right to resort to enforcement action in the first instance if the circumstances warrant rather than following a policy of education and advice with the offender.

All relevant factors will be taken into consideration. These factors are outlined in the focus areas as follows.

## **Focus Areas**

### **Dog fouling and responsible ownership**

Croydon Council recognises the importance of creating a usable and enjoyable environment for all residents. Dog related issues such as fouling and dogs of any kind that are intimidating to users of public places and are uncontrolled, adversely affect the environment and the enjoyment of it. Dog fouling has been cited by residents as a significant environmental issue within the Borough.

The previous legislation relevant to dog control offences was the Dogs (Fouling) of Land Act 1996, this was repealed from 6 April 2005 when the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) became law. The provisions under CNEA 2005 do not alter the existing powers the Police have to deal with dangerous dogs under the Dangerous Dogs Act (1991).

The similarities between these two Acts are areas of land where control is to be imposed has to be pre-designated and specified clearly so that responsible users of the land and potential offenders are aware of the 'controlled area'.

The CNEA 2005 prescribes the designation of land process. Once this has been carried out, the land specified falls under a Dog Control Order (DCO).

A number of Dog Control Orders are in existence around the Borough, which make the following an offence:

- Failing to pick up your dog fouling - in any public space
- Allowing your dog to enter an area from which they are excluded no dog area – in specific areas
- Failing to put your dog on a lead when asked to by an authorized officer – in any public space.

In October 2014 the Dog Control Order legislation was replaced by the Public Spaces Protection Order (PSPO) power contained within the Anti-Social Behaviour Crime and Policing Act 2014 (ASBCPA). This means that the ability to create new DCO's has been repealed but that existing DCO's remain in force for a period of three years from the commencement of the ASBCPA unless replaced earlier by a PSPO. PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. The Council is responsible for making a PSPO although the police also have enforcement powers.

This means that the Council can designate the same Dog Control Order restrictions in parks and open spaces on responsible dog ownership as well as including restrictions on other potential anti-social behaviour. Failure to abide by the restrictions imposed by a PSPO will in most circumstances be punishable by the issuing of an FPN but it can include prosecution.

## **Litter**

It is illegal to drop litter. The Environmental Protection Act 1990 - Section 87 (as amended) states that an offence is committed if anything is dropped, thrown, left or deposited that causes defacement, in any place open to the air that the public have access to with or without payment. This includes any deposit on land or water and the statutory definition of litter specifically includes cigarette butts and chewing gum. Waste/litter found to have come from commercial or a household premise which has been left in a place open to the air without authority and not in accordance with proper waste collection arrangements is also subject to an offence.

Croydon Council provides signed litter bins in high street areas and other busy places across the borough. We will continue to work with schools, residents groups and other forums to reduce the level of littering by undertaking general litter education and raising awareness to highlight the consequences of littering. Where appropriate, authorised officers will use FPN powers to highlight that littering is not tolerated in Croydon.

The community protection notice (CPN) contained in the Anti-Social Behaviour Crime and Policing Act 2014 is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. This can include anti-social behaviour noise and environmental issues. Police, council or social landlords are able to issue CPNs as warnings to individual or businesses if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation:

- is having a detrimental effect on the quality of life of those in the locality;
- is persistent or continuing in nature; and
- is unreasonable.

Each CPN will include a period of for the individual or body to deal with the matter. It will be for the issuing officer to decide how long is allowed on a case by case basis. For example, where a garden is to be cleared of waste, several days or weeks may be required to enable the individual to make arrangements.

Failure to comply with a CPN is an offence. Where an individual, business or organisation fails to comply with the terms of a CPN, a number of options are available for the Council as follows:

- FPN
- Remedial Action e.g. works in default
- Forfeiture or seizure of items e.g. music equipment
- Prosecution in Court

### **Household waste**

Croydon, as a Waste Collection Authority, has a duty to provide a household waste collection service. The Council requires that non-recyclable household waste is placed in wheeled containers provided, and left for collection at the boundary of the house holder's property on their days of collection or in communal containers on housing estates.

Recyclable materials including food waste should be placed in the specific containers provided and in most cases these are collected on the same day as household waste.

Section 46 of the Environmental Protection Act 1990 (as amended) allows the Council to specify what waste is placed in receptacles including recycling materials. It also allows the Council to prescribe the type of containers used, how many there are and when and where they are placed out for collection. The CNEA 2005 provides for the use of FPNs where there are found to be persistent breaches of this legislation to the detriment of the local environment.

The Council has adopted a compulsory recycling scheme from January 2013 that requires all households to use the appropriate containers for recyclable materials to further reduce the amount of waste going to landfill. The process for managing this is to initially provide advice and information to households that are not recycling. If there is no improvement a formal notice will be issued that can then be enforced through FPNs for non-compliance.

### **Business and bulky household waste**

Businesses are under a duty to ensure that their waste is stored, presented and disposed of in accordance with the waste Duty of Care. This duty states that businesses must take all reasonable steps to keep waste secure prior to disposal. Businesses must be sure that their waste is transferred to a company licensed by the Environment Agency to take it and transport, recycle or dispose of it safely.

This transfer of waste must be officially recorded on a Waste Transfer Note. Businesses will receive a Waste Transfer Note from their authorised waste company and this record must be kept and stored, by the business, for two years.

Householders also have a duty to ensure that only a registered waste carrier removes household, garden or construction waste from their property. They should also be able to provide documentary evidence (waste transfer note) upon request by an authorised officer.

The Council provides a comprehensive waste collection service including recycling materials from residents and businesses, non-recyclable waste, commercial waste, bulky goods, green waste and white goods. These services enable residents and businesses to dispose of their waste safely and legally. Further information is available at <http://www.croydon.gov.uk/environment/randw/>

If you transport waste as part of your business or otherwise for profit, you must register with the Environment Agency as a waste carrier, unless you are carrying your own waste and it is not construction or demolition waste. If you are a charity or voluntary organisation and you collect or transport waste on a professional basis you must also register with the Environment Agency as a waste transporter. Failure to produce a waste carrier's licence can result in an FPN or prosecution and seizure of the unregistered vehicle.

### **Fly tipping**

The mismanagement of waste and waste dumping (fly tipping) degrades the amenity of an area and often attracts further environmental crimes. In line with this policy we will provide information and advice to the community on how to properly manage their waste. We will use all relevant legislation at our disposal to prosecute those who fail to act on this information and advice.

Waste dumped on private land presents particular problems for the state of the local environment. Uncontrolled waste disposal like this can also present great health and safety risks and attract other anti-social behaviour. The Council is not responsible for clearing up waste on private land but will use the relevant legislation to ensure that those dumping waste on private land are prosecuted and any clear up costs recovered from the offender. In some instances this may also apply to the owner of the land who may be liable for prosecution if they have allowed their land to be used for dumping.

There are various other powers available to the Local Authority to deal with fly tipping. These include powers that prohibit the illegal deposit of waste and powers that enable to the Local Authority to get areas of private land cleared up. Enforcement action can vary from FPNs for minor household fly tipping offences through to prosecution. On private land the Local Authority is required to serve notice on the land owner to tidy up land and, if necessary, make improvements to prevent the activity from re-occurring. Failure to abide by the notice can lead to prosecution or the Local Authority clearing the waste in default and re-charging the land owner.

If fly-tipping is carried out using a vehicle, both the driver and the owner of the vehicle can be prosecuted. There is also a power to seize any vehicle used for this offence. Reports of vehicles used for fly-tipping are investigated by our enforcement officers. We aim to trace and prosecute the registered owner of all vehicles involved in this act.

<http://www.croydon.gov.uk/transportandstreets/streets/flytipping>

## **Graffiti**

Graffiti is classed as criminal damage and defined as any informal or illegal marks, drawings or paintings that have been deliberately made by anyone on any physical element in the outdoor environment. Graffiti is illegal, anti-social, degrades the local environment and is costly to remove.

The Council clean graffiti and fly-posting from Croydon's streets, public buildings and council owned street furniture on a regular basis. The Council will remove racist or offensive graffiti within 24 hours of a report. They also clean graffiti from private property with the owner's consent. A reasonable charge may be made for this service to recover staff and material costs.

A range of actions is available to authorised officers to deal with graffiti, from FPNs through to Criminal Prosecution. When deciding which course of action to follow we will consider:

- The degree and extent of graffiti that has taken place;
- The overall impact on the local environment;
- The previous history and record of any/all individuals involved in the graffiti.

We will work closely with our community to ensure that Croydon is graffiti-free and work in partnership with those affected by graffiti vandalism to remove it. Following this approach, if graffiti is not removed we reserve the right to serve

a notice on a property owner requiring them to have the graffiti removed and setting a time frame within which this should be done.

### **Fly Posting**

Fly posting is an illegal form of advertising, which degrades the local environment and can contribute to the fear of crime in a community. There is no statutory definition of fly posting however for purposes of the Council's Enforcement Policy we consider fly posting to be the display of advertising material on buildings and street furniture without the consent of the owner, contrary to the provisions of the Town and Country Planning (Control of Advertisement) Regulations 1990 ("the Regulations"). It includes any size of material from small stickers up to large posters.

We are able to take action either by serving a formal Notice under the Town and Country Planning (Control of Advertisement) Regulations 1990 (as amended) or issue fixed penalty notices under the Anti-social Behaviour Act 2003 (as amended), where groups, organisation or individuals fly post without permission.

The powers detailed above in relation to dealing with graffiti offences are also available to prosecute any persons or businesses found to be responsible for fly posting. Where possible we will work in partnership with communications and advertising companies to reduce this problem in the borough.

Where authorised officers are not directly responsible for carrying out enforcement, or it occurs on land that is enforced by other authorities, they will pass details to the relevant service area or authority for further action. In sharing such information the service will need to be mindful of its data protection obligations and ensure that it acts in accordance with these to prevent a breach of Data Protection.

### **Nuisance Vehicles**

Selling a vehicle on the public highway may constitute an offence under section 38 of the London Local Authorities Act 1990 (as amended). This makes it an offence to offer any goods for sale on the highway without a valid street trading licence. When vehicles for sale are being displayed on the public highway for trade or business, this can cause a nuisance to local residents, however it is recognised that from time to time individuals may wish to sell their own vehicle privately, and each case is dealt with on its own merits. Private car sales should seek to use magazine advertising or local shops rather than placing a vehicle for sale on the highway.

Repairing vehicles on a road is an offence. Offenders are primarily those businesses and individuals attempting to use the road as a workshop. This practice causes the same problems as selling vehicles on the highway. As well as looking unsightly they present danger to passers-by and the possibility of damage to the local environment, through for example oil or fuel spills. A

person found guilty of this offence can face a fine of up to £2,500. An FPN can also be issued for this offence.

Residents of the borough can contact the nuisance vehicle section to surrender an unwanted vehicle to the council. Requests to have the vehicle collected have to be made in writing and the V5C document associated with the vehicle enclosed.

Abandoned Vehicles should be reported to the Abandoned Vehicle Section who are responsible for enforcement.

<http://www.croydon.gov.uk/transportandstreets/streets/avreport>

### **Obstructions to the highway**

It is illegal to wilfully obstruct the public highway. Items left in the road, on pavements or overhanging pavements are a potential health and safety risk for road users and pedestrians. Examples of these obstructions are:

- Putting an unlicensed or unlit skip in the road;
- Leaving builders' materials in the road;
- Foliage from gardens that overhang the public highway;
- Obstructing the pavement with advertising boards;
- Obstructing the pavement with tables and chairs.

Anyone wishing to place scaffolding, a skip, building materials, a crane or hoarding on the public highway must first obtain a licence. Croydon issues licences for these purposes which are governed by a specific set of conditions depending upon the licence required.

Footways should be kept clear of foliage at ground level and they should not get in the way of people using the footpath or obstruct street lighting or street furniture.

Standard sized advertising boards may be placed on the footway so long as they are against the curtilage of the property. In order to enable free pedestrian flow there must be a minimum of 1.8 metres between the edge of the board and the kerb. The Council has implemented the licensing of portable advertising boards (A Boards) within a defined area of the town centre. This has helped regulate their use and prevent highways obstructions in the town centre.

### **Levels of enforcement action**

Under normal circumstances, a process of escalation will be used until compliance is reached starting at the lowest appropriate level. Exceptions would include but not be limited to instances where there is a serious risk to public safety, animals or the environment or the offences have been committed deliberately or negligently involve deception, are repeat offences or where there is significant economic detriment. Examples of the main types of action that can be considered are shown below:

### **Informal**

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- No action
- Information, advice and guidance
- Verbal warnings
- Written warnings

### **Formal**

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- Fixed Penalty notices
- Formal Notice
- Caution
- Prosecution

In assessing what enforcement action is necessary and proportionate, consideration will be given to such relevant considerations as arise in each individual case. These considerations could include, among other things:

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- The seriousness of non-compliance/ failure
- The individual's or business's past performance and its current practice
- The risks being managed
- Legal, official or professional guidance
- Local priorities of the Council

### **No Action**

In certain circumstances, contraventions of the law may not warrant any action. This can be where the breach is of a very minor nature with inconsequential risk, the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of *no action* may also be taken where formal enforcement is inappropriate in the circumstances, which may include instances where a trader has ceased to trade, or the offender is elderly, frail or seriously ill and formal action would seriously damage their wellbeing. In such cases we will advise the offender of the reasons for taking no action.

### **Informal Action and Advice**

For minor breaches of the law, verbal or written advice may be given. Any contraventions of the law will be clearly identified and advice given on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance.

### **Warning**

If there has been a minor incident where the law has been broken, it may be decided that the most appropriate course of action is to issue the offender with a verbal and/or written warning. Previous warnings will be taken into account when considering taking formal action.

A written warning will:

- clearly state the nature of the problem and suggest either specific remedies or a standard to achieve
- state the actions which may follow if matters do not improve
- designate a named officer as a point of contact
- clearly distinguish between legal requirements and desirable standards
- indicate any follow up action e.g. a revisit in 14 days
- offer to work with the person(s) responsible in finding a solution if appropriate
- be firm, business like, unambiguous, polite and helpful

### **Fixed Penalty Notices**

Certain offences are subject to Fixed Penalty Notices. These will be issued when an authorised officer observes or has evidence that an offence has been committed. The FPN gives the alleged offender an opportunity to avoid prosecution by payment of the penalty. An FPN is therefore only issued where there is adequate evidence to support a prosecution if a notice is not paid. There is no obligation for the Council to offer an appeals process to someone that might want to dispute a fixed penalty notice – a plea of not guilty will be assessed by the court. However, the council does allow for representation to be made in writing via its online [fixed penalty notice representation form](#). This is then considered by an FPN adjudication officer and once a decision has been made applicants will be notified in writing of the outcome. If the representation is upheld no further action will be taken. If the representation is rejected the outstanding penalty amount needs to be paid within seven days of the date of the letter.

The efficient use of FPN will improve the effectiveness of the enforcement process, resulting in officers being able to focus more detailed attention on more complex and serious cases.

Croydon Council will retain any funds accrued from the serving of FPNs. Payments collected will be used to help offset the costs of the enforcement function by helping fund for example, environmental improvements, relevant educational, operational, and publicity initiatives.

The FPN must be paid within 14 working days of it being served. If the FPN is not paid two reminder letters will be issued requesting payment and setting out what action the Council intends to take. Following this if the FPN is still not paid the case will be considered for prosecution in the Magistrates Court. Croydon does not offer an early payment discount for fines for any offences covered in this policy. There is also no facility to undertake community service as a way to pay the FPN. Payment in instalments is permissible in exceptional circumstances and by agreement with the Council.

The CNEA 2005 makes it an offence to fail to give a proper name and address to the authorised officer when requested to do so for the purposes of issuing an FPN. Any information given to officers for the purpose of issuing

fixed penalty notices is held securely. Information that was collected for one purpose may be used for another council purpose, but in sharing such information the service will need to be mindful of its data protection obligations and ensure that it acts in accordance with these to prevent a breach of Data Protection.

### **Formal Notice**

Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand. In other circumstances, the time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance. All notices issued will include details of any applicable appeals procedures.

Non-compliance with a Formal Notice will always be considered for prosecution. Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with (a breach of the notice) any necessary works to satisfy the requirements of the notice may be carried out by the Council. Where the law allows, a charge may be levied against the person/business served with the notice for any cost in carrying out the work.

### **Caution**

A caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction.

For a simple caution to be issued a number of criteria must be satisfied:

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- sufficient evidence must be available to prove the case
- the offender must admit the offence
- it must be in the public interest to use a simple caution
- the offender must be 18 years or over

If the offender commits a further offence, the caution may influence our decision to prosecute. If during the time the caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

### **Prosecution**

Where a decision to prosecute is made, this decision will be taken in accordance with the Code for Crown Prosecutors. This document details the public interest and evidential considerations when bringing proceedings. Legal advice will be sought where necessary. The Council will have regard to all relevant circumstances in assessing whether prosecution is appropriate and in the public interest.

All enforcement decisions and actions will be made with due regard to the provisions of:

- The Human Rights Act 1998
- The Crime and Disorder Act 1998
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Freedom of Information Act 2000
- Equalities Act 2010
- Equal rights and anti-discrimination legislation

If it is in the public interest and appropriate, information concerning non-compliance will be shared with other enforcement agencies. Where this takes place, we will ensure that the Data Protection Act 1998 and Human Rights Act 1998 are observed.

- Enforcement actions are taken in line with the Enforcement Concordat, which the Council adopted in 1998 and are set out on page 4.

In addition this policy reflects DEFRA guidance on the use of fixed penalty Notices which highlights the need to ensure that if FPN are issued they need to be within a framework where offenders will be prosecuted, should they choose not to pay a notice that has been offered to them. This will help to minimise risk and build credibility in the system.

#### **Who decides what enforcement action is taken**

Decisions about the most appropriate enforcement action to be taken are based upon professional judgment, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government. Where appropriate, decisions about enforcement will involve consultation between or approval from:

- Investigating Officer(s)
- Senior managers
- Council Solicitors

All enforcement related decisions will only be taken by officers authorised under the Council's Scheme of Delegation.

## Summary of Penalties

A summary of potential penalties is as follows:

Focus Area	Offence	Fixed Penalty Fine to be paid in 14 days	Maximum penalty on conviction	Power
Dog Fouling and Responsible Ownership	Failure to comply with a dog control order OR Failure to comply with PSPO	£80	£1,000	CNEA 2005 - Dog Control Orders (until Sept 2017) ASBCPA 2014 – S63 or 67 (from Oct 2014)
Litter	Littering	£80	£2,500	EPA 1990 – S87 (as amended)
	Failure to comply with a Community Protection Notice	£80	£20,000	ASBCPA 2014 – S48
Household Waste	Failure to comply with waste receptacle notice	£100	£1000	EPA 1990 – 47ZA
Business and Bulky Household Waste	Failure to produce waste documents	£300	£5,000 (or, on indictment, an unlimited fine)	EPA 1990 – S34(A)
	Failure to produce authority to transport waste	£300	£5,000	S5B CoPAA 1989
Fly tipping	Illegal deposit of waste	N/A	Unlimited fine or up to 5 years prison	EPA 1990
Graffiti	Informal or illegal marks, drawings or paintings that have been deliberately made by anyone on any physical element in the outdoor environment	£80	£5,000 Or 6 months in prison	ASBA 2003 (as amended)
Fly Posting	Display of advertising material on buildings & street furniture without the consent of the owner	£80	£2,500	ASBA 2003 (as amended), Sec 224 of the TCP Act and Highways Act Sec 132
Nuisance Vehicles	Unlicensed street trading (includes	£150	£2,500	LLAA 1990 – S38(1) & CNEA 2005 – S3

	vehicles for sale on the Highway)			
	Repairing a vehicle on a road	£100	£2,500	CNEA 2005 – S4 & S6
Obstructions to the Highway	Wilful obstruction of the Highway	£100	£5,000	LLAA 2003 Sec 8 and HA 1980 – S137
	Erecting Scaffolding or other structure without license or failing to comply with terms of licence or perform duty	£100	£5,000	LLAA 2003 Sec 8 and HA 1980 – S169(5)

### Implementing the Policy

Supporting the Council’s objectives to transform its services, reduce costs and demand for services and make the borough safer and cleaner, this policy signals a change of focus and introduces a firmer approach to enforcement to deter and penalise offenders through greater use of fixed penalty notices, the issuing of notices and prosecutions.

This demonstrates the importance placed by the Council on street cleanliness, orderliness of the street environment and local environmental quality and its determination to make a stand against the small minority engaged in anti-social behaviour.

While the Council continues to increase the proportion of household waste that is recycled it is clear that a change is needed in the relationship between some householders and their waste so that it becomes the norm for all residents to use the full range of recycling services that are provided. This can be achieved by improving our communications with residents to ensure they have the right information regarding their services and what can and cannot be recycled, and by supporting this with the compulsory recycling policy.

### Enforcement Officers

Only competent officers who have appropriate qualifications or experience will be authorised to take enforcement action. Officers will also have sufficient training and understanding of our enforcement policy and their area of work to ensure a consistent approach to their duties.

All officers carry visible identification picture cards, at all times and an authorisation card to show what legislation they are able to enforce. This is endorsed by the relevant Executive Director through the scheme of delegation.

This policy draws on a wide spectrum of personnel and resources to deliver its aims. Authorised officers from other departments from across the council, the Metropolitan Police Safer Neighbourhood Teams and external contractors may also be authorised to take enforcement action.

Training and relevant updates in street environment enforcement will be provided to ensure all authorised enforcement personnel have the skills and knowledge required to undertake their enforcement duties and to ensure all officers use a consistent approach.

### **Awareness raising and education**

Awareness raising and education are fundamental to the operation of any enforcement work. It is important that the community are listened to and provided with clear information on their responsibilities to enable them to comply with the law. We aim to carry out this element of enforcement by providing consistent advice and guidance about relevant duties and responsibilities through face-to-face operations, leaflets, Croydon's website, local press, specific campaigning and work alongside our partners and stakeholders.

Over and above the targeted awareness raising and education work carried out by officers and partners, specific focused campaigns will be developed to highlight certain local environmental quality problems to a certain group or within a certain area. The policy will also support national and regional environmental quality campaigns.

### **Partnership working**

The success of this policy will depend upon effective partnership working. Key partners will include:

- Teams within Council including parking enforcement, public safety, highways and environment and leisure services, housing and anti-social behaviour.
- Town Centre management
- Police
- Croydon BID
- Local businesses
- Children Families and Young People
- Schools and colleges
- Registered Social Landlords
- South London Waste Partnership
- Environment Agency
- Keep Britain Tidy (ENCAMS)

Partners will help raise awareness through consistent information and advice, to assist in the education of the community regarding their responsibility to help keep Croydon clean and green.

### **Offences by juveniles**

In law, an FPN can be issued to anyone over the age of 10. However, the Council have agreed that it will not issue FPNs to people under the age of 18.

Once an offence has been committed and the age of the offender has been ascertained officers are advised to use care and sensitivity when dealing with young people. In most circumstances the officer will give them a verbal warning and remind them of their responsibility to keep the Borough clean and green. However where the evidential and public interest test are met the Council will consider prosecution.

### **Customer Commitment**

Croydon Council officers work to the standards outlined in the Council's Customer Commitment. This sets out and expands upon our promise that:

- You are treated as a valued customer
- We are professional and know what we are talking about
- We are open, honest and transparent
- We listen to you and act on what you tell us
- We spend your council tax wisely and provide value for money.

### **Equalities Commitment and Human Rights**

In line with our Equalities Commitment which is designed to advance equality of opportunity between people; foster good relations between different communities and eliminate discrimination, harassment and victimisation, all officers are expected to:

- Know the local community and understand its needs
- Engage with all our communities
- Deliver efficient, responsive services and excellent customer care
- Provide strong leadership, partnership and organisational commitment
- Be exemplary employees reflecting a modern and diverse workforce.

The European Convention on Human Rights is incorporated into domestic law by virtue of the Human Rights Act 1998. The Council recognises that the Act requires public authorities to operate in a way that is compatible with those rights, subject to occasions when interference is justified.

It is noted that the rights likely to be most affected by this strategy are those under Article 1 (right to peaceful enjoyment of property and possessions), Article 6 (the right to a fair trial) and Article 8 (respect of privacy and family life). We will at all times seek to strike a fair balance between the needs to protect the rights of residents, businesses and the public interest.

Investigations will be carried out in line with the Police and Criminal Evidence Act 1984 codes of practice and agreed procedures.

## **Complaints**

We aim to be open about the work we do and will be available to provide general advice, deal with specific cases and investigate complaints. We view formal enforcement as a last resort and prefer to work with our clients to achieve compliance. If enforcement is undertaken then officers will act as case officers and be a consistent point of contact during any formal enforcement action. We will provide translation and interpretation if English is not spoken or written by anyone we deal with.

Anyone who is dissatisfied with enforcement actions should follow the Council's complaints procedure. This specifies that a customer may make a complaint if they are dissatisfied with the council's action, or lack of action, or about the standard of service - whether the action was taken by the council itself, or by a person acting on behalf of the council.

The complainant may make a complaint on their own behalf or for a relative or another individual/group either on the phone, face to face, in writing, by email or whichever way best suits the complainant.

To make a complaint or review the Council's complaints policy visit the following link:

<http://www.croydon.gov.uk/democracy/feedback/complaints-procedure/>

## **Evaluation and review**

This Council will regularly review progress and evaluate enforcement action against the above priority areas and their effectiveness in reducing the impact on local environmental quality and the success of any third party agreement for the issue and management of FPNs. Reviews will also seek to introduce where necessary any new powers granted to local authorities in managing local environmental quality.

Key performance indicators that will be used to measure success include:

- Levels of fly tipping, littering, dog fouling and other highways and environmental offences reported
- Improvements in resident satisfaction
- Numbers of FPNs issued and payment rate
- Reduction in environmental complaints

February 2015.