



# Waste Enforcement Policy

2020

WESTMINSTER CITY COUNCIL



# Introduction

This Waste Enforcement Policy details:

- the impact of incorrect waste disposal in our City and why we act against offences
- the type of action we will take and how we will carry out enforcement against offences committed by businesses (commercial), residents and anyone found littering or failing to correctly dispose of dog waste
- responding to a Notice of Intended Prosecution and how you can pay Fixed Penalty Notices
- when we will pursue prosecution

For information and guidance on rubbish and recycling in our City including collection times for your area please visit our website [www.westminster.gov.uk/recycling-and-rubbish](http://www.westminster.gov.uk/recycling-and-rubbish)

## Why we carry out Enforcement

Our City is the heart of the capital serving up to 1 million residents, workers and visitors every day, and with the largest concentration of businesses in the UK we produce and remove around 180,000 tonnes of waste each year.

How we manage this waste has an impact on the daily lives of people, the economy and the environment. To keep our City clean and safe we offer waste collection services up to three times a day in our busiest areas, provide supplementary waste and recycling collection points alongside our street collections, and carry out regular cleansing regimes. Our residents, businesses and visitors also have a role to play in keeping our environment clean and have a responsibility to dispose of their waste or litter in the right way and at the right time.

Litter and waste not correctly disposed of and left on our streets affects how places look and are perceived, how happy and safe people feel in an area, and how attractive it is to those that live, work and visit our city. It can also have significant and dangerous impacts for our community including:

- **Pollution, contamination and risks to health:** Waste if not properly sealed can pollute our environment. Leaching can contaminate water and soil to become toxic to plants and animals, and dog fouling can contaminate soil with parasites that when in contact with humans can lead to significant health concerns such as asthma, blindness and epilepsy.
- **Risks to safety:** Waste discarded on our streets is not only unsightly but can become an obstruction to the footway or highway and can become a fire risk.
- **Pests:** Waste attracts vermin, flies and encourages the spread of weeds placing further burden on the council to fund.
- **Costs:** The council spend around £1million each year removing waste that is not correctly disposed of in addition to costs incurred to counter the effects of improper waste

management such as cleaning stains to the highway. This deprives the economy of tax income and harms the environment and local communities.

- **Undermining those that dispose of their waste correctly and legitimate businesses:** Those disposing of waste illegally and dumping or exporting waste cheaply and recklessly, damages the efforts and reputation of those that strive to protect the environment, interests, and safety in our City.

Enforcement is used to encourage people to comply with their responsibilities and holds those that deliberately spoil the environment to account.

## **The National, Local and Legal Context for Enforcement**

Across the UK, waste crime can take many forms including fly-tipping, illegal dumping or burning of waste, deliberate mis-description of waste, operation of illegal waste management sites, and illegal waste exports - with estimated costs to the tax payer of up to £1billion<sup>1</sup>.

The Environment Agency, sponsored by the Department for Environment Food and Rural Affairs (DEFRA), is responsible for regulating waste in England. Nationally agencies are currently working to deliver on the targets and commitments set out in their Resources and Waste Strategy 2018, and 25-year Environment Plan 2018. This includes improving the transport, management and description of waste by reforming existing regulations; strengthening intelligence sharing to tackle illegal activity; increasing public awareness of waste regulations; and introducing tougher penalties for waste criminals.

Local Authorities are also afforded powers to help tackle local environmental issues such as fly-tipping and waste under the Environmental Protection Act 1990, Clean Neighborhoods and Environment Act (CNEA) 2005 and the Control of Pollution (Amendment) Act 1989. This means that Westminster City Council, has a duty to manage and regulate waste and will use enforcement when necessary to keep our streets, open spaces and local environment clear of litter and waste for the benefit of everyone in the City.

Under the umbrella of the council's Corporate Enforcement Policy, this Waste Enforcement Policy outlines our approach and how we will use our powers.

---

<sup>1</sup> Rethinking Waste Crime, 2017, commissioned by the Environmental Services Association and written by Eunomia

# Our approach to Waste Enforcement

## Who carries out enforcement?

City Inspectors are the council's authorised officers, delegated to carry out waste enforcement. City Inspectors will always carry and present their Westminster Council identification. The following agencies may also carry out waste enforcement (but not exclusively):

- An agency authorised in writing by the council to carry out enforcement on behalf of the authority
- The Environment Agency
- National Park Authorities
- The Police

### Private Land

In most cases the council will not act against offences on private land or within Royal Parks, however this is considered on a case by case basis alongside interventions and action taken by the land owner and the Environment Agency.

## How we identify and investigate an offence

We may identify an offence in response to complaints, through Officer daily patrols and regular routine inspections. When an offence has been identified, officers will seek to establish the origin of the waste which may include opening any sealed bags for evidence, taking photographs and speaking to witnesses.

## Taking a proportionate approach

We will work with residents and businesses to understand how they can dispose of their waste correctly by providing information and advice on our website, in local newspapers, letters, and signs on our streets. Enforcement will be taken on a case by case basis at the officer's discretion and will always be proportionate to the scale or seriousness of the offence committed. However, in most circumstances the council will:

- take a zero-tolerance approach to commercial operators. This is because commercial operators must have a registered waste carrier by law and therefore expected to be aware of their waste responsibilities
- provide a first warning to residents before further enforcement is considered
- pursue prosecution action even if it is the first offence where there is a deliberate disregard for the law - for example if the waste is considered hazardous<sup>2</sup>, when the offender is expected to be aware of their responsibilities, or where the volume of waste is considered excessive, or type of waste is dangerous.

---

<sup>2</sup> Waste is generally considered hazardous if it (or the material or substances it contains) are harmful to humans or the environment. Examples of hazardous waste include, asbestos, syringes, chemicals, such as brake fluid or print toner, batteries, solvents, pesticides, oils (except edible ones), such as car oil, equipment containing ozone depleting substances, like fridges, hazardous waste containers. Further guidance is available on our website.

# Commercial Enforcement

## Your Responsibilities

You are required to act in accordance with the Council's policies and the law. Full details on how to responsibly manage your waste can be found on our website [www.westminster.gov.uk/recycling-and-rubbish](http://www.westminster.gov.uk/recycling-and-rubbish)

### Use an appropriate Waste Carrier

All businesses operating in Westminster City must have a registered waste carrier to collect waste. The carrier must be authorised to take the waste, for recycling or disposal. All businesses and commercial vendors must be able to demonstrate a minimum of two years' worth of evidence of their waste management arrangement to the council; this is known as a Waste Transfer Notice (WTN).

### Use correctly marked bags or stickers if waste is placed on the public highway

Commercial bags or containers being placed on the highway for collection must be clearly marked with the registered waste carrier for collection.

### Put waste out for collection at the correct time

Each street within the borough has designated scheduled waste collection times for commercial waste and recycling. Details on collection times can be found on the council website. Commercial bags or containers should only be placed onto the public highway no earlier than 30 minutes before the collection time. Different rules apply to the length of time your waste can remain on the highway after the collection time before enforcement action is considered, depending on whether you are located within or outside of a 'Bags off street scheme'

- located in a Bags off street scheme: The council operates a "Bags off Streets" Scheme, which runs in the central area of Westminster, including the main commercial streets and in outer areas of the borough. This restricts any waste collected by the local authority or a private contractor to specific time slots. These slots, named, 'time-bands' are different per street, for more information on a specific time-band, please go to the council website.
- located outside of the Bags off street scheme: If your waste carrier is a Westminster contracted Waste Carrier you must comply with the collection times as shown on our website. If you have a private contracted waste carrier, you have a 2.5hour time frame beyond the advertised collection time for your waste to be removed.

## Enforcement Action

Commercial operators who are found to be in breach of their responsibilities will be issued with a Notice of Intended Prosecution.

The Notice of Intended Prosecution will detail the offence and include options to:

- dispute the Notice by providing evidence under caution; or
- discharge liability by paying a Fixed Penalty Notice

For more information on responding to a Notice of Intended Prosecution please see page 9.

## Type of offence and Fixed Penalty Notices (FPN)

### Incorrect Presentation of Waste (Environmental Protection Act 1990 Section 47)

*Offence Code CN9*

This means waste that has not been placed in appropriate receptacle and/or at the specified collection time. The council also reserve the right to determine whether such circumstances may immediately constitute a fly tip.

	Fixed Penalty Amount payable within 14 days	Fixed Penalty Amount if paid within 10 days
First Offence	£110	£75
Second Offence (if within 6 months of first offence)	£110	£75
Subsequent Offences (if within 6 months of second offence)	We will consider any subsequent offence as a flytip and we will pursue prosecution which can lead to a fine as determined by the court	

### Fly-tip (Environmental Protection Act 1990 Section 33)

*Offence Code CN15*

This includes (but not limited to) waste that has not been placed in appropriate receptacle and/or at the specified collection time on multiple occasions, more than one waste or recycling bag, cardboard, large items, white goods, garden and building waste - found either on the public highway or placed alongside Big Black Bins and Micro Recycling Centers.

	Fixed Penalty Amount payable within 14 days	Fixed Penalty Amount if paid within 10 days
First Offence	£400	£240
Subsequent Offence (if within 6 months of first offence)	We will pursue prosecution which can lead to a fine as determined by the court	

**Failing to provide written waste information (Environmental Protection Act 1990 Section 34A) Offence Code CN12**

This is a failure to provide details of waste management arrangements (Waste Transfer Notice) on request. To note that the payment of a Penalty Notice does not discharge the need to have a waste carrier

	Fixed Penalty Amount payable within 14 days	Fixed Penalty Amount if paid within 10 days
Failure to provide evidence within 7 days FPN	£300	£180
Failure to provide evidence after 7 days	We will pursue prosecution which can lead to a fine as determined by the court	

**Duty of Care (Environmental Protection Act 1990 Section 34)**

This is a failure to take all reasonable steps to ensure that waste is disposed of safely and correctly and prevent the escape of controlled waste. Commercial operators who persistently fail to observe their Duty of Care responsibilities (irrespective of any paid or unpaid fixed penalty notices, or evidence of a waste transfer note) will be subject to prosecution, which can lead to a fine as determined by the court.

# Residential Enforcement

## Your Responsibilities

You are required to act in accordance with the Council's policies and the law. Full details on how to responsibly manage your waste can be found on our website [www.westminster.gov.uk/recycling-and-rubbish](http://www.westminster.gov.uk/recycling-and-rubbish). In summary you should:

### **Put waste for collection out at the correct time**

Residents have a designated time where their waste will be collected and disposed of by the council. To find out your collection time please see our website. Waste cannot be put outside for collection any earlier than 30 minutes prior to the collection time. We understand that in some circumstances the collection times for some streets may not be convenient for everyone. We would suggest that it may be more convenient for residents to take waste/recycling to an alternative street in the local area which has collection times more suitable for individual needs. Alternatively, residents can also use the Micro Recycling Centre's (MRC) or the Big Black Bins in their area. These are supplementary facilities do not replace the provided Street collection, which must be used as the main source of disposing of their waste.

### **Not leave waste outside of Big Black Bins**

Residents can use and dispose of their waste using supplementary facilities, such as Big Black Bin sites, whether it is the recycling bins or the big black bins for their normal household waste. When these facilities are locked or are already full, waste must not be left outside or around the bin site.

### **Dispose of Large, Bulky or White Goods Items correctly**

Household furniture such as mattresses, household clearances, white goods such as fridge's and washing machines, trade waste and other bulky items will not be collected. For these items the council provides a bulky goods collection service for residents. Further information of the pick-up service can be found on the website.



## Enforcement Action

Residents who are found to have committed an offence will usually in the first instance be issued with a warning, which will be valid for 12 months. For any subsequent offence within 12 that month period, a Notice of Intended Prosecution may be issued. The Notice of Intended Prosecution will detail the offence and include options to:

- dispute the Notice by providing evidence under caution; or
- discharge liability by paying a Fixed Penalty Notice (Penalty amount is set out below)

For more information on responding to a Notice of Intended Prosecution please see page 9

## Type of offence and Fixed Penalty Notices (FPN)

### Fly-tip (Environmental Protection Act 1990 Section 33)

*Offence Code CN14*

This includes (but is not limited to) waste that has not been placed in appropriate receptacle and/or at the specified collection time; more than one waste or recycling bag, cardboard, large items, white goods, garden and building waste - found either on the public highway or placed alongside Big Black Bins and Micro Recycling Centers.

First Offence	Warning notice issued	
	Fixed Penalty Amount payable within 14 days	Fixed Penalty Amount if paid within 10 days
Second Offence (if within 12 months)	£200	£120
Third Offence (if within 12 months)	£400	£240
Subsequent Offences (if within 6 months of second offence)	We will pursue prosecution which can lead to a fine as determined by the court	

### Duty of Care (Environmental Protection Act 1990 Section 34)

This is a failure to take all reasonable steps to ensure that waste is disposed of safely and correctly and prevent the escape of controlled waste. Commercial operators who persistently fail to observe their Duty of Care responsibilities (irrespective of any paid or unpaid fixed penalty notices, or evidence of a waste transfer note) will be subject to prosecution, which can lead to a fine as determined by the court.

# Littering

## Your Responsibilities

Full details can be found on our website. In summary, littering is a criminal offence and can be defined as throwing down, dropping or depositing any litter in any place and leaving it – whether on the street (including leaving litter on top of waste already on the public highway), or on private land.

Litter includes (but not exclusively):

- cigarette butts and smoking waste
- food and drink containers
- chewing gum
- Printed matter such as leaflets

Any litter must be put in a bin or kept hold of until a bin is located. Any litter must be put in a bin or kept hold off until a bin is located. Litter should always be recycled wherever possible.

## Enforcement Action

Where we witness an offence, we will issue an on the spot Fixed Penalty Notice.

Failure to pay a Fixed Penalty Notice after 28 days will result in the matter being escalated to the local Magistrates Court.

	Fixed Penalty Amount payable within 14 days	Fixed Penalty Amount if paid within 10 days
<b>Leaving litter</b> (Environmental Protection Act 1990 Section 87) <i>Offence Code CN1</i>	£150	£95

# Dog Fouling

## Your Responsibilities

Full details can be found on our website. In summary, it is an offence for a dog owner, or those in care of dogs, not to clean up after their dog in public places such as road, estates, footpaths and parks. It is no defense to claim ignorance of the dog's actions. All dog owners, or those in a caring capacity, should always carry dog waste bags and dispose of these bags inside the nearest bin.

## Enforcement Action

Under the Dogs (Fouling of Land) Act 1996 the council may issue an on the spot Fixed Penalty Notice of £100. Failure to pay a Fixed Penalty Notice after 28 days will result in the matter being escalated to the local Magistrates Court.

# Responding to a Notice of Intended Prosecution

If we have reason to believe you have committed an offence, we may serve you with a Notice of Intended Prosecution. A Notice of Intended Prosecution will provide you with the opportunity to dispute the offence under caution, or discharge liability by paying a Fixed Penalty Notice.

## Disputing a Notice of Intended Prosecution

Details on how to do this will be contained within the Notice. Any information you provide under caution may be used as evidence should the matter proceed to court.

The review of the evidence submitted will be undertaken by a senior delegated officer. The senior delegated officer will notify you of their decision in writing that either:

- **There was insufficient evidence for the council to consider withdrawing action:** You will then have 7 days from receiving this notification to discharge liability by paying the Fixed Penalty Notice or choose to have the case heard in court.

*Or*

- **The council will withdraw any further action**

## Discharging Liability by paying a Fixed Penalty Notice

Fixed Penalty Notices can be paid online at [www.westminster.gov.uk/FPNS](http://www.westminster.gov.uk/FPNS)

- You have 10 days from the date of issue to pay a reduced rate.
- After 10 days, but before 14 days, you will need to pay the full penalty amount.
- After 14 days a reminder letter will be sent to pay the full penalty amount.
- Failure to pay a Fixed Penalty Notice after 28 days will result in the matter being escalated to the local Magistrates Court.

## Failing to respond to a Notice of Intended Prosecution

If you do not respond to the Notice and do not discharge liability by paying a Fixed Penalty Notice, the council will proceed the case to prosecution.

## Prosecution

We may prosecute in respect of serious or recurrent breaches, or where other enforcement action has failed to secure compliance. Any successful prosecution could result in a criminal record.

Where a business is concerned, we will consider the management chain and the role played by individual directors and managers. We will act where an investigation reveals that the offence was committed with management knowledge or consent, or to have been attributable to any neglect on their part. We may also seek disqualification of directors under the Company Directors Disqualification Act 1986.