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| Ref. No.        | PL/RE/6 |
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| People          |         |
| Place           | Yes     |
| Corporate       |         |
| In Constitution |         |

## Dorset Waste Partnership Enforcement Policy and Enforcement Procedures & Guidelines

### Policy Details

|                                     |   |
|-------------------------------------|---|
| <p>What is this policy for?</p>     | <p>These documents provide a framework for the areas of waste enforcement covered by the Dorset Waste Partnership (DWP), how enforcement will be undertaken and the process and procedures that will be followed.</p> <p>The documents were reviewed and updated in November 2017 to take account of changes in legislation, particularly around the Deregulation Act 2015, and to formalise the DWP's approach to enforcement.</p> <p>The Enforcement Policy sets out the general principles and approach that the DWP will follow when enforcing waste legislation. The principles of DWP enforcement will be to:</p> <ul style="list-style-type: none"> <li>• target action</li> <li>• use proportionality</li> <li>• be accountable</li> <li>• provide fairness and consistency</li> <li>• be open and transparent</li> <li>• reduce enforcement burdens</li> </ul> <p>The Enforcement Procedures and Guidelines document aims to determine good practice and to demonstrate clarity and consistency in the delivery of waste management enforcement duties and powers relevant to the DWP in accordance with the DWP Waste Enforcement Policy. It details the core functions of the DWP Enforcement Team as follows:</p> <ul style="list-style-type: none"> <li>• Abandoned Vehicles</li> <li>• Fly tipping</li> <li>• Dropping litter</li> <li>• Powers to prevent littering</li> <li>• Duty of care compliance checks</li> <li>• Waste collection related offences – Recycle for Dorset offences</li> </ul> <p>For each function the document details the relevant legislation, the type of enforcement action available and the procedure that will be followed for suspected perpetrators to be dealt with in the most appropriate manner.</p> |
| <p>Who does this policy affect?</p> | <p>The implementation of this policy primarily impacts upon those perpetrators that are responsible for a waste crime and commit an offence under the relevant environmental legislation.</p>   |
| <p>Keywords</p>                     | <p>Abandoned vehicles, fly tipping, litter, duty of care, recycling, rubbish, food waste, waste collections, bins, waste.</p>   |
| <p>Author</p>                       | <p>Louise Bryant/Lisa Mounty, Service Development Manager, Waste Strategy Team</p>  |

|   |  |
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| Dorset Council policy adopted from                          | Dorset Waste Partnership. This policy applies across the Dorset Council area.  |
| Does this policy relate to any laws?                        | <p>Numerous pieces of national legislation including the following:</p> <ul style="list-style-type: none"> <li>• The Environmental Protection Act 1990</li> <li>• Controlled Waste Regulations 1992/2012</li> <li>• The Environment Act 1995</li> <li>• Anti-social Behaviour Crime &amp; Policing Act 2014</li> <li>• Anti-social Behaviour Act 2003</li> <li>• Environmental Information Regulations 2004</li> <li>• Refuse Disposal Amenity Act 1978</li> <li>• The Control of Pollution Act 1989</li> <li>• Clean Neighbourhoods and Environment Act 2005</li> <li>• Fraud Act 2006</li> <li>• Control of Pollution Act 1974</li> <li>• Deregulation Act 2015</li> </ul> |
| Is this policy linked to any other Dorset Council policies? | <p>Waste enforcement is recognised as a fast-changing area and the procedures and guidelines document is under periodic review and refinement.</p> <p>Actions of the DWP Enforcement Team are achieved and monitored through the production of a three-year Waste Enforcement Strategy (2017 – 2020).</p>  |
| Equality Impact Assessment (EqIA)                           | <p>An EQIA was prepared when the Enforcement Policy and Procedures and Guidelines documents were presented to the DWP Joint Committee on 6th November 2017 as they recommended a harder line, more robust approach to waste crimes and waste collection offences i.e. issuing of warnings, Fixed Penalty Notices, prosecutions and waste collection charges where applicable. This enables the DWP to deal with waste crimes appropriately and proportionally.</p> <p>A new EQIA will be completed when the policy is reviewed for Dorset Council.</p>   |
| Other Impact Assessments                                    | None.  |

## Status and Approvals

|                        |  |                  |   |
|------------------------|--|------------------|---|
| Status                 | Live                                     | Version          | 1   |
| Last review date       | 6 November 2017                          | Next review date | It will be reviewed in the event of any significant changes to legislation. |
| Approved by (Director) | Director of the Dorset Waste Partnership | Date approved    | 6 November 2017   |
| Member Approval        | Dorset Waste Partnership Joint Committee | Date approved    | 6 November 2017   |

## **Enforcement Policy**

### **1. Introduction**

This document outlines the overarching Enforcement Policy of the Dorset Waste Partnership (DWP) and is to be used in conjunction with the related Enforcement Procedures and Guidelines document.

It provides information on:

- the purpose of our enforcement policy
- our principles of enforcement
- our enforcement actions
- what you can expect of us
- our accessibility/advice details
- our policy review period

'Enforcement' includes any formal or informal action taken by officers aimed at ensuring that businesses or individuals comply with the law. These actions will range from offering information, advice, issuing written warnings, fixed penalty notices (FPN's), simple cautions and instituting legal proceedings and prosecutions.

Enforcement decisions will be fair, impartial, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Decisions will not be influenced by improper or undue pressure from any source.

The DWP enforces various waste legislation throughout the county of Dorset, excluding the Purbeck District Council area. This Enforcement Policy statement sets out the general principles and approach that the DWP will follow when enforcing waste legislation. It will be used in conjunction with guidance issued from the Department for the Environment and Rural Affairs (DEFRA) and other professional bodies.

The DWP Enforcement Policy, as set out in this document, refers to offences dealing with waste that can be refuse or rubbish including domestic, commercial and industrial waste and/or litter derived from the public either individually or from organised gatherings. It also includes abandoned vehicles, fly tipped waste, poor management of waste including poor storage of waste, illegal dumping of waste, transfer of waste to unauthorised persons or without the correct documentation and placing waste out for collection too early. All of the above offences can lead to a detrimental effect on the quality of the local environment and how an area is perceived.

The above will be achieved primarily by providing information, advice and education. Where it is deemed that an accumulation of non-compliance has not been averted by reason with an offender, evidenced in no change in attitude or behaviour by the individual/household or the seriousness of a single offence is such, only then would enforcement of regulations be considered.

Securing compliance with statutory requirements and using enforcement powers, including prosecution is an important part of this enforcement policy.

The DWP will ensure that all appointed officers are competent, authorised and are trained in the use of this policy. The DWP will work with the other Local Authorities, professional bodies and DEFRA to ensure coherent regulation.

## **2. Background documents**

The DWP Enforcement Policy has been produced having regard to three principal documents:

### The Enforcement Concordat

<http://webarchive.nationalarchives.gov.uk/+http://www.berr.gov.uk/files/file10150.pdf>

The Concordat is a Code of Practice between Government and local Councils. It sets out what businesses and others being regulated can expect from the Council's enforcement services. Dorset County Council as the host authority for the DWP has signed the Concordat. This means all Services provided by the DWP are committed to good enforcement practices and procedures.

### The Code for Crown Prosecutors

[https://www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/](https://www.cps.gov.uk/publications/code_for_crown_prosecutors/)

The code for Crown Prosecutors sets out general principles to be applied when making decisions about prosecutions. As a regulatory body the DWP also follows the principles of the guide when considering enforcement action.

### The Regulators' Compliance Code

<https://www.gov.uk/government/publications/regulators-code>

The Regulators' Compliance Code (the Code) is made under Legislative and Regulatory Reform Act 2006. The code sets out that Regulators must *have regard* to the provisions of the Code when determining general policies and principles or when setting standards or giving general guidance about the exercise of general functions. It does not apply to the work of individual inspectors.

The Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (specifically part 3) sets out those regulatory functions by local authorities to which the Code applies. This Enforcement Policy has included those aspects of the Code which are relevant to our activities. The intention of the DWP is to help to promote an efficient and effective approach to inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.

## **3. Principles of enforcement**

### **Targeting**

The aim of the DWP is to, above all, deter future non-compliance and in doing so prioritise and direct the regulatory effort proportionally and effectively.

Action will be primarily focused on breaches of the law or those directly responsible for the risk and who are best placed to control it.

## **Proportionality**

The DWP will ensure that enforcement action is proportionate to the nature and seriousness of the offence, harm to the environment and risks involved, and that the sanctions applied are meaningful.

## **Accountability**

The DWP will be accountable for the efficiency and effectiveness of enforcement activities.

## **Fairness and consistency**

The DWP will treat all service users and businesses fairly. The DWP will ensure that enforcement practices are consistent. This means the adoption of a similar approach in similar circumstances to achieve similar ends.

The DWP will have regard to national guidelines in the decision-making processes.

## **Openness and transparency**

The DWP is committed to the open provision of information and advice in a format that is accessible and easily understood. The DWP ensure that there is always a clear distinction between those actions necessary to comply with the law, and those which we recommend as best practice but which are not compulsory.

## **Reducing enforcement burdens**

If there is a shared enforcement role with other agencies, e.g. the Environment Agency or the Police, the DWP will consider co-ordinating with these agencies to minimise unnecessary overlaps or time delays and to maximise overall effectiveness.

## **4. Enforcement actions**

The range of enforcement options available are set out in the following:

### **Indirect action**

Including referral to another authority or agency for information or action.

### **Verbal warning**

A verbal warning may be used where the offender complies with the direction they have been given but are resistant to the rationale behind it. The offender should be aware of the possible seriousness of the offence and that they have been warned as to their future conduct and that repeating the behaviour may lead to more serious consequences.

Where a verbal warning has been given the details of the offender should be recorded and stored in accordance with the Data Protection Act 1998.

Should an offender show any signs of violence or aggression then the verbal warning shall be confirmed by a written warning.

## Written warnings

Written warnings can be used where;

- A verbal warning or relevant advice has been previously given but ignored and/or the offence has continued or repeated;
- It is not possible to make contact with the offender in person, e.g. if it is a company and the warning is to the director(s);
- The offender is known to be violent or aggressive;
- English is not the offender's first language.

## Simple caution

In cases where it is deemed that the offence is continual but not persistent or a moderately high serious nature, to deal with the offender quickly and simply avoiding unnecessary appearances in criminal courts, a simple caution may be appropriate.

A caution is an admission of guilt but it is not a form of sentence, nor is it a criminal conviction – although it may be cited in court in certain circumstances. A record of the caution will be sent to the Office of Fair Trading and to other bodies that are required to be notified.

## Fixed Penalty Notices

A Fixed Penalty Notice (FPN) will be issued to persons who are alleged to have committed an offence where a prosecution is not appropriate. This gives the alleged offender the opportunity of discharging any liability to conviction for any offence by payment of a FPN.

It is essential for the issuing of a FPN that the authorised officer collects adequate evidence to support any legal proceedings if the notice is returned unpaid.

## Prosecution

A prosecution will only be undertaken for persistent non-compliance and/or of a serious nature when the evidence passes the 'Evidential Test' and when it is in the public interest to do so. The DWP will have regard to the Crown Prosecution Service Code of Practice which is available at: [https://www.cps.gov.uk/publications/docs/code\\_2013\\_accessible\\_english.pdf](https://www.cps.gov.uk/publications/docs/code_2013_accessible_english.pdf)

Prosecution is more likely when:

- Harm to the local amenity or environment or threat to public safety has occurred
- The offender has deliberately set out to cause harm or deceive
- There is a history or pattern of offending
- The offender has previously been formally cautioned for similar offences
- It is in the public interest to take formal action
- There has been no genuine mistake or misunderstanding

Where it is necessary to carry out a full investigation, the case will be progressed without undue delay. All investigations into alleged breaches of legislation will be conducted in compliance with statutory powers and all other relevant legislation (and relevant Codes of Practice), including the requirements of:

- Police and Criminal Evidence Act (PACE)

- Criminal Procedure and Investigations Act (CPIA)
- Regulation of Investigatory Powers Act (RIPA)
- Human Rights Act (HRA).

As part of the investigation process, persons suspected of breaching legal requirements will, wherever possible:

- Be formally interviewed in accordance with PACE
- Be given the opportunity to demonstrate that a statutory defence is available
- Have the opportunity to give an explanation or make any additional comments about the alleged breach.

Before a decision to prosecute is taken, the alleged offence(s) will be:

- Fully investigated including legal review and advice
- A report compiled by the Investigating Officer
- The file reviewed by a member of the Senior Manager Team (SMT)
- The decision to prosecute approved by SMT

The DWP will take into account the views of any victim, injured party or relevant person to establish the nature and extent of the offence including potential harm and loss and its significance in making the decision to take formal action.

## **5. Engagement with the public**

The Enforcement officers will engage with the public in a number of ways including telephone calls, letters, emails, requests for consumer and business advice and inspection of business premises. Responses will be made in accordance with Dorset County Councils customer service standards guide. Residents, complainants and businesses will be informed on unresolved issues at no longer than monthly intervals.

At all times, officers will:

- be courteous and helpful
- identify themselves by name and produce identification if requested
- provide a contact point for any further dealings
- give clear and simple advice
- confirm advice in writing on request, explaining why action is required and over what time-scale
- clearly distinguish between what must be undertaken to comply with the law and what is recommended as best practice
- minimise the cost of compliance by requiring proportionate action
- give reasonable time to comply (unless immediate action is necessary in the interest of health, safety or to prevent evidence being lost)
- give notification if the matter is to be reported for legal proceedings
- advise of the procedure for making a complaint or representations in cases of dispute
- maintain confidentiality

Before any legal action is taken there will be an opportunity to discuss the case, although if we are considering a prosecution it will be a formal interview.

Where a right of appeal against a formal action exists other than through the courts, advice on the appeal mechanism will be clearly set out in writing at the time the action was taken.



## **Enforcement Procedures and Guidelines**

### **1. Introduction**

The aim of this document is to determine good practice and to demonstrate clarity and consistency in the delivery of waste management enforcement duties and powers relevant to the Dorset Waste Partnership (DWP), in accordance with the DWP Waste Management Enforcement Policy.

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

Enforcement includes visits, inspections, verbal and written advice or information on legal requirements and good practice, assistance with compliance, written warnings, the serving of statutory notices, issuing fixed penalty notices, prosecution, seizure and detention and injunctions. Liaison and co-operation with other enforcement authorities and organisations will also occur where appropriate.

The details contained within this document will offer guidance and assistance to officers involved in enforcement activities in Waste Enforcement. These core functions relate to enforcement for:

- Abandoned vehicles
- Fly tipping
- Dropping litter
- Powers to prevent littering
- Duty of care compliance checks
- Waste collection related offences – Recycle for Dorset service

The DWP will routinely consult and work with other agencies including the Police, Environment Agency, DVLA and the Highways Agency.

### **2. Key pieces of legislation**

The DWP has key legislative powers, under the Environmental Protection Act 1990 (EPA 1990), Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) and other legislation relating to the environment. These offer a wide range of powers to enable the DWP to fulfil the duties for which it is responsible.

All enforcement action taken by the DWP will be regarding the relevant statutory provisions and their amendments. The key pieces of legislation include:

#### 2.1 Environment Protection Act 1990

A definitive Act for the structure and authority of waste management and the control of emissions in England, Wales and Scotland. Part 1 sets out the regulations whereby the Secretary of State for Environment, Food and Rural Affairs can set limits on emissions into the environment. Part 2 deals with regulations surrounding the controlled disposal of waste, either household, industrial or commercial, on land. It also addresses the regulations surrounding transportation, treatment, carrying and storage of waste.

#### 2.2 Controlled Waste Regulations 1992 / 2012

The revised regulations came into force on 6 April 2012. These revoke and replace the Controlled Waste Regulations 1992. The regulations classify waste as household, industrial or commercial waste. They enable local authorities in England and Wales to charge for the collection and disposal of waste from non-domestic properties.

### 2.3 Clean Neighbourhoods and Environment Act 2005

The Act provides local authorities with more effective powers to tackle poor environmental quality and anti-social behaviour. In particular the Act includes sections on nuisance and abandoned vehicles, graffiti, waste, noise and dogs. Many of the provisions relate to powers not duties.

### 2.4 Refuse Disposal (Amenity) Act 1978

States that local authorities have a duty under the Refuse Disposal (Amenity) Act 1978 to remove any vehicle abandoned on land in the open air or land part of a highway.

### 2.5 Anti-Social Behaviour, Crime and Policing Act 2014

The Anti-Social Behaviour, Crime and Policing Act 2014 (c. 12) is an Act of the Parliament of the United Kingdom which greatly expands law enforcement powers in addressing anti-social behaviour. It gives powers to issue community protection notices. These community protection notices deal with unreasonable, ongoing problems or nuisances which negatively affect the community's quality of life by targeting the person responsible.

### 2.6 The Deregulation Act 2015

The Deregulation Act 2015 came into force on 15 June 2015 and involves the decriminalisation of waste receptacle offences in England under section 46 of the Environmental Protection Act 1990.

Local authorities are still able to issue FPNs under section 46A of the Environment Protection Act but the deregulated civil process is lengthier and gives those in receipt of a notice greater rights of appeal.

An offence is now committed only if there has been a failure, without reasonable excuse, to comply with requirements a local authority has made; and the failure to comply:

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

As the act 'decriminalises' waste receptacle offences, it is no longer possible in England to prosecute individuals for failure to comply with the Environmental Protection Act 1990. The FPN level of charge has also been reduced from £100 to a scale of between £60 and £80, with an early payment amount of no less than £40. Unpaid FPNs are recovered summarily as civil debt.

### 2.7 Regulations of Investigatory Powers Act 2000

The Regulation of Investigatory Powers Act 2000 (c.23) (RIP or RIPA) is an Act of the Parliament of the United Kingdom, regulating the powers of public bodies to carry out surveillance and investigation, and covering the interception of communications.

### 2.8 Police and Criminal Evidence Act 1984

The Police and Criminal Evidence Act 1984 (PACE) (1984 c. 60) is an Act of Parliament which instituted a legislative framework for the powers of police officers in England and Wales to combat

crime, and provided codes of practice for the exercise of those powers.  
<http://www.legislation.gov.uk/ukpga/1984/60/contents>

## 2.9 Criminal Procedure and Investigations Act 1996

The Criminal Procedure and Investigations Act 1996 is a piece of statutory legislation in the United Kingdom that regulates the procedures of investigating and prosecution of criminal offences.  
<https://www.gov.uk/government/publications/criminal-procedure-and-investigations-act-code-of-practice>

### **3. Enforcement actions**

Enforcement actions against offences, as set out in this document, will require authorised officers to follow set procedures and protocols. This will ensure consistency in the collection of evidence and the type of enforcement actions applied. Enforcement action should only be taken if there is compelling and complete evidence of an offence having taken place.

The DWP will use the following range of enforcement actions:

| <b>Type of enforcement action</b> | <b>Activities to be undertaken</b>   |
|-----------------------------------|--|
| Information and advice            | <p>The first contact with a person reported to the DWP or believed to be causing or permitting an offence, will be by advisory letter or verbal communication. The enforcement officer's role will be to inform, guide and support.</p> <p>If written observations, suggestions or requirements are appropriate, such written guidance will clearly identify the nature of the complaint or problem and any remedial works that are required.</p> <p>Any requirements made verbally or in writing will clearly identify whether they are mandatory or advisory in nature. If the requirements are mandatory, a timescale for compliance will be specified.</p> <p>Informal written warnings may be issued to make clear that it will view any further breaches of legislation to be treated seriously and that these may be subject to enforcement action.</p> |
| Written Warnings                  | <p>Written warnings should only be used when there is evidence that shows beyond reasonable doubt that a person has committed an offence and it is considered to be inappropriate to issue a simple caution or Fixed Penalty Notice.</p> <p>A written warning should contain the following information:</p> <ul style="list-style-type: none"> <li>• Date</li> <li>• Time and location of the alleged offence</li> <li>• Personal details of the alleged offender</li> <li>• The nature of the offence and relevant legislation</li> <li>• Be signed and dated upon issuing by an authorised officer.</li> </ul>   |

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| Simple cautions             | <p>The decision whether to issue a simple caution, or higher level enforcement action, will relate to the nature of the offence and the attitude of the alleged offender.</p> <p>As with all types of enforcement action, the alleged offender will be required to supply the officer with their personal details. These details cannot be used to issue any other type of enforcement action for that offence; however they can be used in conjunction with future enforcement action.</p> <p>Persons alleged to have committed an offence will only be issued with one simple caution and this will be kept on record for 5 years.</p> <p>DWP can issue simple cautions (previously known as 'Formal Cautions') as an alternative to prosecution for less serious offences and where a person admits an offence and accepts the simple caution. If a simple caution is offered and declined prosecution will be considered.</p> <p>Simple cautions must contain the following information; date, time and location of the alleged offence, personal details of the alleged offender, the nature of the offence and relevant legislation. It must be signed and dated by an authorised officer and must be issued using a formal notice (appendix 16) which also includes the signature of the offender agreeing to accept a caution.</p>  |
| Fixed Penalty Notices (FPN) | <p>An FPN will be issued to persons who are alleged to have committed an offence where it is considered to be the most appropriate enforcement action. This gives the alleged offender the opportunity of discharging any liability to conviction for the offence by payment of an FPN.</p> <p>It is essential for the issuing of an FPN that the authorised officer collects adequate evidence to support any legal proceedings if the notice is returned unpaid.</p> <p>The FPN must contain the following information; date, time and location of the alleged offence, personal details of the alleged offender, the nature of the offence and relevant legislation, and be signed and dated upon issuing by an authorised officer. The notice will clearly state that by opting to pay the fixed penalty, the DWP will take no legal action for the prescribed offence.</p> <p>When an FPN has been issued, the alleged offender has 14 days within which to make the full payment amount, or pay a discounted amount within 7 days.</p> <p>After 14 days if an FPN has not been paid, the alleged offender will be sent a reminder letter. This letter will state the terms of the penalty payment, and the payment deadline. If it remains unpaid for a period of 14 days after the payment deadline has passed, a file will be put together and court proceedings will be issued. Unpaid penalties will be followed up by prosecutions through the courts.</p> |
| Prosecution                 | <p>In certain cases, prosecution through the courts may be the most appropriate course of action, or where other enforcement actions have had no effect. Prosecution will likely follow when:</p>   |

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|  | <ul style="list-style-type: none"> <li>• An FPN is issued to an alleged offender is returned unpaid after the 14 day payment period</li> <li>• Three FPNs have been issued to a person</li> <li>• An offence is of a size or nature where an FPN is considered to be insufficient</li> <li>• It is an offence where an FPN cannot be issued.</li> </ul> <p>Where prosecution through the courts is appropriate, a full case file will be prepared by the Enforcement Officer and then reviewed and signed off by the Head of Strategy, DWP. Once signed off, it will be passed to the Dorset County Council Legal Department for further scrutiny and to progress for prosecution if it is within the public interest.</p> |
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#### 4. Evidence gathering

Evidence is key to the enforcement procedure. The recording and storage of this evidence must be carried out in a concise and consistent manner to ensure its admissibility in Court. Evidence collected by authorised officers will come in various forms, from various sources and, dependant on its quality, could be used in a variety of enforcement actions.

Evidence that is obtained by an authorised officer 'in the field' will be recorded in a timely manner in ink in a PACE notebook. All entries must be clear and precise.

Evidence must be in the form of:

| Type of evidence    | Activities to be undertaken  |
|---------------------|--|
| Addressed documents | Evidence gathered in relation to an offence, can come in the form of an addressed document, which may relate to the person believed to have committed the offence (e.g. when household waste is found to be fly tipped, an authorised officer will search the waste for any documentation which may relate to the person responsible).   |
| Witness statements  | <p>Where an authorised officer has witnessed an offence occurring, that officer will have to produce a witness statement.</p> <p>If a member of the public has witnessed an offence, in order for the evidence to be of value, they must be willing to attend court to give evidence, if that becomes necessary. Any statement made by a witness must be signed and dated by the witness and witnessed by the authorised officer at the time of taking the statement.</p> <p>Statements will be recorded on an s9 witness statement form (Appendix 1).</p> |
| Interviewing        | The Police and Criminal Evidence Act (PACE) Codes of Practice require any person interviewed regarding his involvement or suspected involvement in an offence must be under caution, otherwise the evidence will be inadmissible in court. This caution must be carried out before any questions are put to him regarding the offence. PACE interviews (Appendix 2) will only be undertaken by authorised trained officers.  |

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|  | <p>No juvenile (a person aged under 18) or mentally impaired person should be interviewed without an appropriate adult being present.</p> <p>As a last resort, it may be necessary to try to interview the suspect by way of correspondence. In this way it will be possible to write to the suspect under caution asking them relevant questions and giving them a time by which to reply.</p> |
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In determining the sufficiency of evidence, consideration should be given to the following factors regarding the credibility of witnesses:

- are they likely to be seen as credible witnesses
- are they likely to be consistent and fair under cross-examination
- are they willing to attend as witnesses
- could they be 'hostile' witnesses

Where the case depends in part on admissions or confessions, consideration should be made to their admissibility and whether interviews, statements and other evidence have been obtained in compliance with relevant legislation. In determining the admissibility of evidence, regard should be given to the requirements of the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996 and associated Codes of Practice.

## **5. Further Enforcement Considerations**

### 5.1 Waste collection charge (Controlled Waste Regulations 2012)

Paragraph 4 of the Controlled Waste (England and Wales) Regulations 2012 can be used to impose a collection charge to cover the cost of collecting side waste and contaminated waste if the authority has already served a section 46 notice in relation to this issue. Any charges under this paragraph are not intended to be penal – they simply allow the authority to cover the cost of collecting waste which falls outside their usual service.

### 5.2 Request for personal details by an authorised officer

Authorised officers have the power to require the name and address of a person who they believe has committed an offence.

To avoid serving enforcement action using false details, the authorised officer will use all reasonable methods to confirm the details supplied by an alleged offender. The initial method of confirmation will be through the Electoral Services Officer, where personal details can be checked against the electoral roll (but this will not include juveniles).

Failing to supply personal details, or giving a false name and address to an authorised officer is an offence, and carries a fine of £1,000 upon conviction. If a person fails to provide an authorised officer with personal details, the officer will take all reasonable steps to obtain information on that person.

### 5.3 Persistent offenders

Where a written warning has been issued on a previous occasion, and a further offence is committed on a separate occasion, no further informal warnings will be issued. The next course of action will be to consider the use of an FPN, simple caution or prosecution.

Where a simple caution has been issued on a previous occasion, and a further offence is committed on a separate occasion, no further cautions will be issued. In these cases, the next likely course of action would be to go to prosecution.

A person may be issued with up to three FPNs in total. If found to have infringed the law on a fourth separate occasion, no further penalty notices will be served upon that person and court proceedings will be instigated.

#### 5.4 Juveniles (person aged under 18)

When a juvenile is alleged to have committed an offence the name, address, age and date of birth of the suspected offender should be obtained, together with the name and address of his or her parent or legal guardian. For offenders aged 16 or 17 years old, an FPN can be issued using the same procedure as for adults.

For offenders between 10 and 15 years old, an FPN should not normally be issued. If on enquiry it is found that an FPN is suitable, then the notice should be issued to the offender with an appropriate adult being present.

### **6. Core offences and procedures**

The DWP has the power to take enforcement action against persons that commit a variety of environmental crimes. The following are considered to be the core offences:

- Abandoned vehicles
- Fly tipping
- Dropping litter
- Powers to prevent littering
- Duty of care compliance checks

#### 6.1 Abandoned vehicles

Under the Refuse Disposal (Amenity) Act 1978, a person commits an offence if, without lawful authority, abandons on any land in the open air, or on any land forming part of a highway, a motor vehicle or anything that has formed part of a motor vehicle. There is no legal definition of an abandoned vehicle. Authorised officers must use their discretion when forming decisions on abandonment using guidance issued by DEFRA.

<http://webarchive.nationalarchives.gov.uk/20130403014732/http://archive.defra.gov.uk/environment/quality/local/legislation/cnea/documents/vehicles.pdf>

Authorised officers will normally only be able to arrange for the removal of a vehicle from a highway or public land. Abandoned vehicles will also only be investigated if the vehicle has no tax and no MOT, and is in the open air. However, the MOT and tax status does not apply if the vehicle is a detriment to the environment i.e. it is vandalised or damaged.

Abandoned vehicles on private land can be removed at the request of the landowner or occupier. If the vehicle is on private land we require a request for removal from the land owner and a copy of the land registry deeds, clearly showing the red curtilage line of ownership.

If found guilty of abandoning a vehicle on a highway or on land in the open air, a person can be fined up to £2,500, or a term of not exceeding three months imprisonment, or both. In lieu of prosecution, the DWP will issue an FPN of £200, reduced to £150 if paid within the first 7 days.

## Procedural guide

- Check the abandoned vehicle registration number on the .gov website to ascertain tax and MOT status and print off. This must be done before visiting the site and before applying to the DVLA for any registered keeper details.
- Visually inspect the vehicle on site, and complete an abandoned vehicle report using a DWP abandoned vehicle sheet (Appendix 3). Fill out as much information as possible. Always take a photograph/s of the abandoned vehicle at the location.
- If necessary, complete a 24/zero hour notice (vehicle of no value), 7 day notice (on public highway) or 15 day notice (private land) on site and stick it on the drivers' window or windscreen. Take a photograph of the notice on the abandoned vehicle.
- Apply for registered keeper details on the DVLA computer. Only an authorised officer employed directly by DWP can undertake this and it must only be used for this offence. Enter enquiry on to the log sheet (hard copy only). Keep paperwork (ABV sheet and photo) for each ABV in sequence with log sheet.
- Send first letter to registered keeper (Appendix 4) instructing them to remove the vehicle from the area.
- Once the notice has expired (7 days for vehicles on public highway and 15 days for vehicles on private land), an authorised officer will revisit the area to establish if the letter / notice has been adhered to by the registered keeper. Subsequently, if it is found that the vehicle is no longer at the location, the date of the revisit and a brief note needs to be written on the DWP abandoned vehicle sheet (Appendix 3), stating the vehicle is no longer at the location and has been removed by persons unknown. If the vehicle has been removed as detailed above the Lagan case needs to be updated and closed.
- If, after the notice has expired or for other reasons, the decision is made to remove the vehicle, enter all relevant details onto the abandoned vehicle spreadsheet on the network (Appendix 5). Use next consecutive reference number on spreadsheet as the log number for that vehicle.
- Complete Form A (Appendix 6), save in folder and email to [enquiries@dorsetwastepartnership.gov.uk](mailto:enquiries@dorsetwastepartnership.gov.uk) and to the contractor, [simon@wsrecycling.co.uk](mailto:simon@wsrecycling.co.uk).
- Email should contain request to the contractor for removal, vehicle details (registration, make, model, and colour), exact location (GIS, postcode) and date to be removed. A picture of the vehicle sent with the email is also useful. Ask for notification from contractor that vehicle has been removed on date requested.
- The vehicle will then be stored for 21 days at the contractor's premises and then destroyed/dismantled. Vehicles of no value can be destroyed immediately.
- Update Lagan and complete ABV spreadsheet when the vehicle has been removed
- If the owner contacts the DWP after the vehicle has been removed from the highway/land and it has not yet been destroyed, the owner may collect the vehicle from the contractor at a cost. This is usually the removal fee and a charge for storage (daily charge since removal date) and will be negotiated between the contractor and the vehicle owner.
- If an owner of a vehicle is identified at any stage of the process, dependant on individual case circumstance, the DWP have the discretion to issue an FPN for abandoning a vehicle under the Refuse Disposal (Amenity) Act 1978.

## 6.2 Fly tipping

The Environment Protection Act 1990 (EPA 1990) makes it an offence to deposit controlled waste, or knowingly cause or knowingly permit controlled waste, to be deposited in or on any land unless a waste management licence authorising the deposit is in force and/or the defence of an offender states that they are acting under his employer's instructions.

The powers to deal with fly tipping incidents are shared between local authorities and the Environment Agency. The national fly tipping protocol (agreed between the Environment Agency



and LGA) gives guidance on which authority should take the lead in dealing with fly tips dependant on their size, composition and location.

Local councils have the discretion to choose whether to investigate such incidents on private land, but have no obligation to clear fly-tipped waste. The DWP will endeavour to investigate fly tipping incidents on private land where resources permit and the severity warrants investigation.

Where there is evidence that a landowner is 'knowingly permitting' unlawful waste activities on their land by failing to address them, the DWP may serve and enforce a notice under section 59 of the Environment Protection Act 1990 requiring the occupier of the land to remove material fly-tipped and/or reduce the consequences of the deposit of that fly-tipped material, i.e. secure the site. Under section 59, the DWP may remove fly-tipped material and can seek to recover the necessary costs of doing so from the occupier of the land or any person who deposited, knowingly caused or knowingly permitted the deposit of the controlled waste.

The Clean Neighbourhoods and Environment Act 2005 applies a penalty for a person found guilty of a fly tipping offence to be a fine of up to £50,000 or 12 months imprisonment if convicted in a Magistrates Court. If convicted in a Crown Court, it is an unlimited fine, or a term not exceeding 5 years imprisonment for both hazardous and non-hazardous waste offences.

In lieu of prosecution for a fly tipping offence, the DWP can give an alleged offender the opportunity to pay an FPN of £400, reduced to £200 if paid within the first 7 days.

#### Procedural guide

- For every fly tipping investigation, the following information must be recorded:
  - Date, time, place
  - What was fly-tipped (description, how much)
  - Check fly tip for evidence of origin (letters with names and addresses).
  - Take photographic evidence
- Any evidence obtained needs to be recorded and stored as per the Criminal Procedure and Investigations Act 1996 (section 23(1)) Code of Practice.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/447967/code-of-practice-approved.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/447967/code-of-practice-approved.pdf)

- Try and establish:
  - Were there any witnesses? (If so, then statements should be taken)
  - Note details of any vehicle involved (registration, make, colour etc.) Never check for registered keeper details on the DVLA system unless information received is from a council officer or there is a written signed s9 statement regarding the incident from the witness.
  - Descriptions of fly tippers
  - Send out investigative letter (appendix 7 or 7a as appropriate)

This information can then be used to try and identify the offenders.

- Interviewing witnesses:
  - All persons who witness fly-tipping should have their identities established and be interviewed under PACE as soon as possible in a controlled setting by a trained/ authorised officer.

- The witness statement should be documented on an s9 witness statement form and dated and signed by the witness.
- Interviewing offenders:
  - The following details of the interview must be recorded on tape or in notebook:
    - Date, time, place of interview
    - Who was present
    - That the caution was administered - "You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."
  - Details of any vehicle involved in the offence (registration, make, colour etc)
  - What was fly-tipped (description, how much)
  - Note any breaks in interview and reason
  - The time at the end of the interview
  - Sign at end of interview and ask interviewee to sign at the end of the interview
- The importance of the caution will be explained and/or that the person being interviewed fully understands the caution.
- Decide on what enforcement action will be taken (i.e. written warning, simple caution, FPN and/or prosecution). If a prosecution is taken through the court, use the DWP case file template (appendix 8).

### 6.3 Seizing vehicles for suspected waste crime

Under the Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015, the DWP can seize a vehicle, trailer or mobile plant and their contents if they think it is being or will be used in the waste crimes

The DWP will only seize a vehicle if they suspect it is:

- been used to illegally dump waste (e.g. fly tipping) in a way that could cause pollution to the environment or harm to human health
- driven by someone not registered as a waste carrier
- breaking the rules of duty of care, e.g. it's been used to transfer waste to someone not registered as a waste carrier

The procedure as quoted in the .gov website will be followed (Local authorities: seizing vehicles for suspected waste crime).

### 6.4 Dropping litter

#### Pedestrians

The Environment Protection Act 1990 (EPA 1990) section 87 makes it illegal to drop litter. This relates to places in the open air to which the public are entitled or permitted to have access without payment, including any covered place open to the air on at least one side and to which the public has access. The Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) extends the scope of that offence so that it becomes an offence to drop litter anywhere in the open air (including rivers and lakes) regardless of ownership, except in locations where the public does not have access or the owner of the land has given permission for the dropping of litter or a legal authorisation exists to do so.

The term litter refers to any discarded item/s that leads to the defacement of the area, including food and drink containers, sweet papers, cigarette ends, chewing gum etc. The absence of a litter bin is not an excuse to drop litter. There is usually a litter bin within a reasonable walking distance and people have the option to take it home.

If found guilty of a litter offence under this legislation, the offender can be fined up to £2,500, or a term of not exceeding three months imprisonment, or both. In lieu of prosecution for a litter offence, the DWP can issue an FPN of £100 reduced to £75 if paid within the first 7 days.

#### Procedural guide – pedestrians

- DWP Authorised Officers will approach and speak to pedestrian offenders. The officer's authorisation and identity will be shown at the beginning of any interaction and the offender advised of the offence - "that, they did deposit and leave litter (namely....) on (any land or water open to the air, whether public or private, namely...), contrary to section 87 of the Environmental Protection Act 1990."
- The offender will then be interviewed to obtain their name, address and date of birth and they will be given opportunity to comment. Evidence of identity will be requested but not insisted upon. If date of birth is declined, make a note of approximate age.
- If a person picks up the litter following the approach of the officer, an FPN can still be issued. This can be done at the time or through the post.
- If the offender refuses to provide their name and address, they will be informed that this will be treated as an obstruction and a PACE caution must be issued at this point. – ("you do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.") Police support may then be requested. The offender will now be liable for prosecution and not given the opportunity to receive an FPN.
- If the FPN is not paid within 7 days, the alleged offender will be sent a reminder letter. This letter will state the terms of the penalty payment, and the payment deadline,
- If an FPN remains unpaid for a period of 14 days after the payment deadline has passed, a file will be put together and court proceedings will be issued. All unpaid penalties will be followed up by prosecutions through the courts.

#### Vehicles

Littering from vehicles can be dealt with using the Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018. These regulations allow a civil penalty notice to be issued to the keeper of the vehicle from which litter is thrown. This removes the need to identify precisely who threw the litter before taking enforcement action.

Under these regulations, the penalty can be levied between £50 - £150, with a default level set at £100. The civil penalty charge must be at the same level as the fixed penalty charge for littering. Therefore, the DWP will issue a civil penalty charge of £100, reduced to £75 if paid within 14 days, if the civil penalty is not paid within the 28-day payment period the fine level liable will double.

Any income from these civil penalties will only be used for functions relating to litter and refuse, graffiti and flyposting, controlling and enforcing against the unauthorised distribution of free literature.

#### Procedural guide - vehicles

- Evidence will be gathered to be able to issue a civil penalty notice. This will include:

- The circumstances alleged to constitute the littering offence, including the registration mark (if known) of the vehicle concerned.
  - The make of vehicle, model and colour
  - The opening from which the litter was thrown (e.g. driver's side window)
- If there is sufficient evidence and either a S9 witness statement or a report from a council employee, then the DVLA WEE system will be accessed to obtain details of the registered keeper of the vehicle.
  - The civil penalty notice (appendix 8a) will be issued to the registered keeper of the vehicle unless it can be proven that the vehicle was 'kept' by someone else at that time.
  - The DWP will take enforcement action on the basis of evidence supplied by members of the public provided that the evidence is sufficient to meet the relevant standards of proof.
  - If the DWP use evidence from a recording device (such as a CCTV camera or dash-cam in one of our own vehicles) in appeal proceedings, we will produce the recording(s) and a certificate stating the circumstances in which the record was produced must be provided (signed by a person authorised to do so by the litter authority which installed the device).
  - When using recording devices, the DWP will ensure that we are compliant with other relevant legislation, such as the Regulation of Investigatory Powers Act 2000, and the Protection of Freedoms Act 2012. The recording devices must be able to produce a record of the presence of a particular vehicle on the litter authority's land, and the date and time at which the vehicle is present.
  - The registered keeper of the vehicle has 28 days in which to either pay the civil penalty notice or submit an appeal (i.e. a written representation) to the Dorset Waste Partnership.
  - The Dorset Waste Partnership will respond to written representations within 56 days of receiving them. If the Dorset Waste Partnership rejects the written representation, the registered keeper has a right to appeal to an independent adjudicator within 28 days from the day the notice of rejection is given. The independent adjudicator is the Traffic Penalty Tribunal and they operate an online appeals system (FOAM).

If it can be proved which specific individual was responsible for littering from a vehicle, then the criminal proceedings will be followed under the Environment Protection Act 1990 (EPA 1990) section 87.

#### 6.5 Powers to prevent littering - Community protection warnings and notices

The Community Protection Notice is intended to deal with unreasonable, on-going problems or nuisances which negatively affect the community's quality of life by targeting the person responsible (Anti-Social Behaviour, Crime and Policing Act 2014) (section 43(1)). The notice can direct any individual over the age of 16, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again (section 43(3)).

An authorised person may issue a community protection notice to an individual aged 16 or over, or a body, if satisfied on reasonable grounds that (i) the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality; and (ii) the conduct is unreasonable.

A community protection notice may be issued by a constable, the relevant local authority, or a person designated by the relevant local authority for the purposes of this section.

A community protection notice imposes any of the following requirements on the individual or body issued with it:

- a) A requirement to stop doing specified things
- b) A requirement to do specified things
- c) A requirement to take reasonable steps to achieve specified results.

A person issued with a community protection notice who fails to comply with it commits an offence. Breach of any requirement in the notice, without reasonable excuse, would be a criminal offence, subject to a fixed penalty notice (which attracts a penalty of £100) (section 52) or prosecution. On summary conviction, an individual would be liable to a level 4 fine (currently up to £2,500). An organisation such as a company is liable to a fine not exceeding £20,000.

### Procedural guide

- A written warning (appendix 9) will be issued to the person committing the offence. This must make clear the nature of the behaviour that is considered anti-social, that if they do not stop the anti-social behaviour they could be issued with a CPN and, the time by which the offending behaviour must stop/change. It will also detail the potential consequences of being issued with a CPN, i.e. the penalties for breaching it.
- If the situation does not improve, the CPN will be issued (Appendix 10). This can be handed directly to the person in question or it can be posted to them.
- Failure to comply will result in either an FPN being issued or prosecution through the courts.

### 6.6 Duty of care compliance checks

Sections 34 and 47 of the Environment Protection Act 1990 (EPA 1990) places a 'Duty of Care' on all producers of commercial waste to ensure all such waste is stored and disposed of in a proper and safe manner. Waste must be passed on to an authorised person and the producer must retain a waste transfer note that sets out certain details of the waste. These waste transfer notes must be kept for two years.

Under the EPA 1990 the DWP can request to see evidence of a waste collection from a licensed waste disposal company (i.e. Waste Transfer Notes).

Regulation 35 of the Waste (England and Wales) Regulations 2011 imposes requirements in relation to the retention and furnishing of the waste transfer notes. Regulation 35(6) states that the transferor and the transferee must keep the written information, or a copy of it, for at least 2 years and produce it to an officer of the appropriate body or of a waste collection authority on demand within 7 days.

If a person is not able to produce the relevant waste disposal documents, the DWP will allow that person 7 days within which to produce the documentation. Failure to produce any documentation after 7 days can result in a fixed penalty fine of £300 (reduced to £180 for early payment) or prosecution where the maximum fine is unlimited. The maximum fine for illegally dumping waste is unlimited and/or a term of imprisonment not exceeding five years.

Section 34A (2) of the Environment Protection Act 1990 also places a 'Duty of Care' on householders to ensure they take reasonable steps to check that people removing waste from their premises are authorised and licensed to do so. As with the commercial checks, the DWP can request to see evidence of a waste collection from a licensed waste disposal company (i.e. Waste Transfer Notes). A breach of the household duty of care would attract an unlimited fine if convicted.

Section 5 of the Control of Pollution Act 1989 states that a waste carriers licence is required if a person:

- transport waste

- buy, sell or dispose of waste
- arrange for someone else to buy, sell or dispose of waste

Failure to produce documentation after 7 days can result in a fixed penalty fine of £300 (reduced to £180 for early payment) or prosecution where the maximum fine is £5,000.

## 7 Waste collection related offences - Recycle for Dorset service

The DWP has developed a 'Recycle for Dorset' Service Policy detailing the service policies in relation to the collection of household recycling and residual waste for Dorset.

Under the Environment Protection Act 1990 (EPA 1990), the DWP can specify what materials can and cannot be placed in certain kinds of waste receptacles and the location where residents must put their waste receptacles to facilitate waste collection. If the location is outside of the boundary of a property, the DWP can also specify between what times the receptacles must be put out and taken back in. The DWP can issue a section 46 notice (Appendix 11) to a person who fails to comply with these specified requirements.

Due to the amendment of the Environmental Protection Act 1990 by the Deregulation Act 2015, this has resulted in the waste collection offences becoming civil rather than criminal. In addition, an offence has only been committed if there has been a failure to comply with the requirements a local authority has made and the failure to comply has caused a nuisance or has been detrimental to any amenities of the locality.

**The following procedures are guidelines for non-compliance of the policy for the 'recycle for Dorset' service, and are only to be used for blatant abuse of the service. Officers should use discretion in applying these procedures as the overall aims of the DWP are where such an offence as detailed below occurs, the intention is to resolve the issue by information, advice and education. Only in cases of persistence or severe non-compliance will enforcement action be taken.**

### 7.1 Non DWP sacks and containers

The 'Recycle for Dorset' service policy says:

- We will not collect waste contained in non-authorized DWP sacks, boxes or other loose rubbish.
- We will only empty wheeled bins that are provided by the DWP.
- We reserve the right to only collect the authorized number of sacks per property per collection.

### Procedural guide

- First occurrence - The operative will collect the DWP authorised sacks and containers but will not remove unauthorised non-DWP containers, bags/waste attaching a rejection hanger and/or sticker on the bin/box/sacks. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected). Non DWP sacks or containers letter 1 (appendix 12) sent to the property by the depot. Details of the event will be recorded on a relevant management system (LAGAN).
- Second non-compliance - The operative will collect the DWP authorised sacks and containers but will not remove unauthorised non-DWP containers, bags/waste attaching a rejection hanger and/or sticker on the bin/box/sacks. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected). A warning letter will be sent by the enforcement team to the householder clearly outlining their responsibilities and referring to

possible action under an s46 notice (non DWP sacks or containers letter 2 (appendix 12)). Details of the event will be recorded on a relevant management system (LAGAN).

- Third non-compliance - The operative will collect DWP authorised sacks and containers but will not remove unauthorised non-DWP containers bags/waste attaching a rejection hanger and/or sticker on the bin/box/sacks. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected). The enforcement team will contact the householder to issue an s46 notice (appendix 11). The depot will be notified and details of the event will be recorded on a relevant Management system (LAGAN).
- Continued non-compliance:
  - The operative will collect the DWP authorised sacks and containers but will not remove unauthorised non-DWP containers, bags/waste attaching a rejection hanger and/or sticker on the bin/box/sacks. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected).
  - An option to pay a 'waste collection charge' to the DWP, under the Controlled Waste Regulations 2012, may be given to the householder. This will provide them with a method to clear the waste. (Collection charge residential letter (appendix 12)).
- In cases of continued non-compliance following the issue of a s46 notice, the documents below will be issued in consecutive order by the enforcement team:
  - Written warning under s46 which will include a date for compliance (appendix 13).
  - If the non-compliance continues to be continuous, then a Notice of intent under s46 will be issued (appendix 14). If the failure to comply is not continuous, only if an individual commits another same or similar offence within one year of the first offence can a Notice of intent be issued.
  - Allow 28 days for appeal.
  - If the representations are rejected by the council, issue a final notice that a FPN of £75 (reduced to £50 if paid within 7 days) will be issued (appendix 15).
  - The FPN is payable within 28 days or the individual can appeal. There is a reduced amount if paid within 14 days.
  - Appeal possible to a first-tier tribunal, which either confirms FPN is payable or rejects it. There is then 28 days to pay from ruling.
  - Further appeal possible. If it reaches the High Court or county court, it is recoverable as a civil debt.

Please note that depending on the severity of the case, the enforcement team may decide to issue a Community Protection Notice instead of an s46 notice for this offence. This will be issued if the team are satisfied that i) the conduct of the individual/household is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and (ii) the conduct is unreasonable. Should this be the decision, the procedure as detailed in section 6.4 of this document will be followed instead.

## 7.2 Collection point for emptying wheelie bins and boxes

The 'Recycle for Dorset' service policy says:

- Containers should be placed on the kerbside at the boundary/edge of curtilage of the property adjacent to the publicly maintained road, unless otherwise agreed by the DWP.

## Procedural guide

- First occurrence - The operative will not empty the container. Should a missed collection or other complaint be reported, a depot representative will contact the householder clearly outlining the householder's responsibilities and to identify if there are any underlying reasons as to the non/incorrect presentation of the bin/box. Collection point for emptying containers and sacks letter 1 (appendix 12) and map/diagram will also be sent out by the depot to the householder clearly outlining the householder's responsibilities, including agreed presentation location. Details of the event will be recorded on a relevant management system (LAGAN).
- Second non-compliance - The operative will not empty the container. Should a missed collection or other complaint be reported, the enforcement team will contact the householder clearly outlining the householder's responsibilities and referring to possible action under an s46 notice (collection point for emptying containers and sacks letter 2 (appendix 12)). Details of the event will be recorded on a relevant management system (LAGAN).
- Third non-compliance - The operative will not empty the container. Should a missed collection or other complaint be reported, the enforcement team will contact the householder to issue an s46 notice (appendix 11). The depot will be notified and details of the event will be recorded on a relevant Management system (LAGAN).
- In cases of continued non-compliance following the issue of a s46 notice, the documents below will be issued in consecutive order by the enforcement team:
  - Written warning under s46 which will include a date for compliance (appendix 13).
  - If the non-compliance continues to be continuous, then a Notice of intent under s46 will be issued (appendix 14). If the failure to comply is not continuous, only if an individual commits another same or similar offence within one year of the first offence can a Notice of Intent be issued.
  - Allow 28 days for appeal.
  - If the representations are rejected by the council, issue a final notice that a FPN of £75 (reduced to £50 if paid within 7 days) will be issued (appendix 15).
  - The FPN is payable within 28 days or the individual can appeal. There is a reduced amount if paid within 14 days.
  - Appeal possible to a first-tier tribunal, which either confirms FPN is payable or rejects it. There is then 28 days to pay from ruling.
  - Further appeal possible. If it reaches the High Court or county court, it is recoverable as a civil debt.

### 7.3 Bin presentation and return

The 'Recycle for Dorset' service policy says:

- After the containers are emptied..... It is the householders' responsibility to return the containers to within the boundary of their property as soon as possible after they have been emptied and no later than the evening of the day of collection.

### Procedural guide

- First occurrence - The operative will empty the container. If there is evidence that the resident is not returning the container after collection, a depot representative will contact the householder clearly outlining the householder's responsibilities and to identify if there are any underlying reasons as to the non/incorrect return of the bin/box. Containers left on highway between collections letter 1 (appendix 12) will also be sent out by the depot to the householder clearly outlining the householder's responsibilities. Details of the event will be recorded on a relevant management system (LAGAN).



- Second non-compliance - The operative will empty the container. If there is evidence that the resident is not returning the container after collection, the enforcement team will contact the householder clearly outlining the householder's responsibilities and referring to possible action under an s46 notice (containers left on highway between collections letter 2 (appendix 12)). Details of the event will be recorded on a relevant management system (LAGAN).
- Third non-compliance - The operative will empty the container. If there is evidence that the resident is not returning the container after collection, the enforcement team will contact the householder to issue an s46 notice (appendix 11). The depot will be notified and details of the event will be recorded on a relevant Management system (LAGAN).
- In cases of continued non-compliance following the issue of a s46 notice, the documents below will be issued in consecutive order by the enforcement team:
  - Written warning under s46 which will include a date for compliance (appendix 13).
  - If the non-compliance continues to be continuous, then a Notice of intent under s46 will be issued (appendix 14). If the failure to comply is not continuous, only if an individual commits another same or similar offence within one year of the first offence can a Notice of Intent be issued.
  - Allow 28 days for appeal.
  - If the representations are rejected by the council, issue a final notice that a FPN of £75 (reduced to £50 if paid within 14 days) will be issued (appendix 15).
  - The FPN is payable within 28 days or the individual can appeal. There is a reduced amount if paid within 14 days.
  - Appeal possible to a first-tier tribunal, which either confirms FPN is payable or rejects it. There is then 28 days to pay from ruling.
  - Further appeal possible. If it reaches the High Court or county court, it is recoverable as a civil debt.

#### 7.4 Side waste

The 'Recycle for Dorset' service policy says:

- Additional residual waste presented alongside the residual waste bin or authorised sacks will be deemed as 'side waste' and will not be collected.

#### Procedural guide

- First occurrence - The operative will empty the container / collect authorised sacks but will not remove unauthorised bags/waste attaching a rejection hanger and/or sticker on the bin/box/sack. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected). Side waste letter 1 (appendix 12) will also be sent out by the depot. Details of the event will be recorded on a relevant management system (LAGAN).
- Second non-compliance - The operative will empty the container / collect authorised sacks but will not remove unauthorised bags/waste attaching a rejection hanger and/or sticker on the bin/box/sack. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected). An education officer will contact the householder clearly outlining the householder's responsibilities and referring to possible action under an s46 notice (side waste letter 2 (appendix 12)). Details of the event will be recorded on a relevant management system (LAGAN).

- Third non-compliance - The operative will empty the container / collect DWP authorised sacks but will not remove unauthorised bags/waste attaching a rejection hanger and/or sticker on the bin/box/sack. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected). The enforcement officer will contact the householder to issue an s46 notice (Appendix 11) for repeated non-compliance and notify the depot. Details of the event will be recorded on a relevant Management system (LAGAN).
- Continued non-compliance:
  - The operative will empty the container / collect the DWP authorised sacks and containers but will not remove unauthorised non-DWP containers, bags/waste attaching a rejection hanger and/or sticker on the bin/box/sacks. (If the authorised sacks and containers are inaccessible due to the unauthorised waste, they will not be collected). An option to pay a 'waste collection charge' to the DWP, under the Controlled Waste Regulations 2012, may be given to the householder. This will provide them with a method to clear the waste. (Collection charge residential letter (appendix 12)).
- In cases of continued non-compliance following the issue of a s46 notice, the documents below will be issued in consecutive order by the enforcement team:
  - Written warning under s46 which will include a date for compliance (appendix 13).
  - If the non-compliance continues to be continuous, then a Notice of intent under s46 will be issued (appendix 14). If the failure to comply is not continuous, only if an individual commits another same or similar offence within one year of the first offence can a Notice of Intent be issued.
  - Allow 28 days for appeal.
  - If the representations are rejected by the council, issue a final notice that a FPN of £75 (reduced to £50 if paid within 14 days) will be issued (appendix 15).
  - The FPN is payable within 28 days or the individual can appeal. There is a reduced amount if paid within 14 days.
  - Appeal possible to a first-tier tribunal, which either confirms FPN is payable or rejects it. There is then 28 days to pay from ruling.
  - Further appeal possible. If it reaches the High Court or county court, it is recoverable as a civil debt.

Please note that depending on the severity of the case, the enforcement team may decide to issue a Community Protection Notice instead of an s46 notice for this offence. This will be issued if the team are satisfied that i) the conduct of the individual/household is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and (ii) the conduct is unreasonable. Should this be the decision, the procedure as detailed in section 6.4 of this document will be followed instead.

### 7.5 Overfilled or overweight bin

The 'Recycle for Dorset' service policy says:

- Bins should not be overfilled or too heavy for the collection vehicles and crew to move and lift safely.
- The householders should make sure that the bin is not overfilled so that the lid can close completely.

### Procedural guide

- First occurrence - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sack. Bins too heavy letter 1 (appendix 12) will also be sent out by the depot. Details of the event will be recorded on a relevant management system (LAGAN).
- Second non-compliance - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sack. The enforcement team will contact the householder clearly outlining the householder's responsibilities and referring to possible action under an s46 notice (bins too heavy letter 2 (appendix 12)). Details of the event will be recorded on a relevant management system (LAGAN).
- Third non-compliance - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sack. The enforcement team will contact the householder to issue an s46 notice (Appendix 11) for repeated non-compliance and notify the depot. Details of the event will be recorded on a relevant Management system (LAGAN).
- In cases of continued non-compliance following the issue of a s46 notice, the documents below will be issued in consecutive order by the enforcement team:
  - Written warning under s46 which will include a date for compliance (appendix 13).
  - If the non-compliance continues to be continuous, then a Notice of intent under s46 will be issued (appendix 14). If the failure to comply is not continuous, only if an individual commits another same or similar offence within one year of the first offence can a Notice of Intent be issued.
  - Allow 28 days for appeal.
  - If the representations are rejected by the council, issue a final notice that a FPN of £75 (reduced to £50 if paid within 14 days) will be issued (appendix 15).
  - The FPN is payable within 28 days or the individual can appeal. There is a reduced amount if paid within 14 days.
  - Appeal possible to a first-tier tribunal, which either confirms FPN is payable or rejects it. There is then 28 days to pay from ruling.
  - Further appeal possible. If it reaches the High Court or county court, it is recoverable as a civil debt.

## 7.6 Contaminated bins and containers

The 'Recycle for Dorset' service policy says:

- Any other material found in the bin and containers will be deemed as contamination and the container may not be collected.

### Procedural guide

- First occurrence - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sack. Contaminated household recycling bin letter 1 (appendix 12) will also be sent out by the depot. Details of the event will be recorded on a relevant management system (LAGAN).
- Second non-compliance - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sack. An education officer will contact the householder clearly outlining the householder's responsibilities and referring to possible action under an s46 notice (contaminated household recycling bin letter 2 (appendix 12)). Details of the event will be recorded on a relevant management system (LAGAN).

- Third non-compliance - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sack. The enforcement team will contact the householder to issue an s46 notice (Appendix 11) for repeated non-compliance and notify the depot. Details of the event will be recorded on a relevant Management system (LAGAN).
- Continued non-compliance:
  - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sack.
  - An option to pay a 'waste collection charge' to the DWP, under the Controlled Waste Regulations 2012, may be given to the householder. This will provide them with a method to clear the waste. (Collection charge residential letter (appendix 12)).
- In cases of continued non-compliance following the issue of a s46 notice, the documents below will be issued in consecutive order by the enforcement team:
  - Written warning under s46 which will include a date for compliance (appendix 13).
  - If the non-compliance continues to be continuous, then a Notice of intent under s46 will be issued (appendix 14). If the failure to comply is not continuous, only if an individual commits another same or similar offence within one year of the first offence can a Notice of Intent be issued.
  - Allow 28 days for appeal.
  - If the representations are rejected by the council, issue a final notice that a FPN of £75 (reduced to £50 if paid within 14 days) will be issued (appendix 15).
  - The FPN is payable within 28 days or the individual can appeal. There is a reduced amount if paid within 14 days.
  - Appeal possible to a first-tier tribunal, which either confirms FPN is payable or rejects it. There is then 28 days to pay from ruling.
  - Further appeal possible. If it reaches the High Court or county court, it is recoverable as a civil debt.

Please note that depending on the severity of the case, the enforcement team may decide to issue a Community Protection Notice instead of an s46 notice for this offence. This will be issued if the team are satisfied that i) the conduct of the individual/household is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and (ii) the conduct is unreasonable. Should this be the decision, the procedure as detailed in section 6.4 of this document will be followed instead.

### 7.7 Communal properties – contamination

The 'Recycle for Dorset' service policy says:

- Where shared bins are used and the DWP experiences problems of persistent contamination, recycling facilities may be restricted, changed or withdrawn.
- Wheeled bins and containers must be clearly visible with no restrictions to access. All wheeled bins and food containers must be presented with closed lids. For residual waste no extra bags, boxes or loose residual waste (side waste) will be collected.

Unlike the procedure for individual householders, operatives will continue to empty the containers for each non-compliance (as part of the refuse round the following week). This is because there is limited opportunity for the management agency / landlord / housing association to clear the waste. They are unable to use a private contractor because the bins are DWP owned and they would be unable to empty the communal containers and take the waste to a household recycling centre. As it

states in the procedural guide below, should non – compliance continue following the issuing of the letters, a s46 notice will be issued and at this point, the charges for each collection will commence.

#### Procedural guide

- First occurrence - The operative will not empty the container and attach a rejection hanger and/or sticker on the bin/box/sacks. The container will be emptied the following week as refuse. Contaminated communal recycling bin letter 1 (appendix 12) will also be sent out by the depot to the householders and management agency / landlord / housing association. Details of the event will be recorded on a relevant management system (LAGAN).
- Second non-compliance - The operative will not empty the container and attach a rejection hanger and/or sticker on the bin/box/sacks. The container will be emptied the following week as refuse. An education officer will contact the management agency / landlord / housing association clearly outlining the householder's responsibilities and referring to possible action under an s46 notice. Contaminated communal recycling bin letter 2 (appendix 12) will also be sent out to the householders and management agency / landlord / housing association. Details of the event will be recorded on a relevant management system (LAGAN).
- Third non-compliance - The operative will not empty the container and attach a rejection hanger and/or sticker on the bin/box/sacks. The container will be emptied the following week as refuse. An enforcement officer will contact the management agency / landlord / housing association to issue an s46 notice to each householder (Appendix 11) for repeated non-compliance and notify the depot. Details of the event will be recorded on a relevant Management system (LAGAN).
- Continued non-compliance:
  - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sacks. The container will be emptied the following week as refuse.
  - A 'waste collection charge' under the Controlled Waste Regulations 2012, will be given to the management company / landlord / housing association. This charge will then be issued for all collections of contaminated waste following the issue of the s46 notice. (Collection charge communal letter (appendix 12)).

#### 7.8 Communal properties – Blocked in rubbish bins (side/excess waste)

The 'Recycle for Dorset' service policy says:

- Wheeled bins and containers must be clearly visible with no restrictions to access. All wheeled bins and food containers must be presented with closed lids. For residual waste no extra bags, boxes or loose residual waste (side waste) will be collected.

#### Procedural guide

- First occurrence - The operative will not empty the container and attach a rejection hanger and/or sticker on the bin/box/sacks. Blocked in communal rubbish bins letter 1 (appendix 12) will be sent out by the depot to the householders and management agency / landlord / housing association. The container(s) will be emptied on the next scheduled collection if the management agency / landlord / housing association clears the side / excess waste to allow access. Details of the event will be recorded on a relevant management system (LAGAN).
- Second non-compliance - The operative will not empty the container and attach a rejection hanger and/or sticker on the bin/box/sacks. An education officer will contact the management agency / landlord / housing association clearly outlining the householder's responsibilities and

referring to possible action under an s46 notice. Blocked in communal rubbish bins letter 2 (appendix 12) will be sent to the householders and management agency / landlord / housing association. The container(s) will be emptied on the next scheduled collection if the management agency / landlord / housing association clears the side / excess waste to allow access. Details of the event will be recorded on a relevant management system (LAGAN).

- Third non-compliance - The operative will not empty the container and attach a rejection hanger and/or sticker on the bin/box/sacks. An enforcement officer will contact the management agency / landlord / housing association to issue an s46 notice to each householder (Appendix 11) for repeated non-compliance and notify the depot. The container will be emptied on the next scheduled collection if the management agency / landlord / housing association clears the side / excess waste to allow access. Details of the event will be recorded on a relevant Management system (LAGAN).
- Continued non-compliance:
  - The operative will not empty the container attaching a rejection hanger and/or sticker on the bin/box/sacks. The container will be emptied on the next scheduled collection.
  - A 'waste collection charge' under the Controlled Waste Regulations 2012, will be given to the management company / landlord / housing association. This charge will then be issued for all collections of waste (including the cost of clearing the excess side waste) following the issue of the s46 notice. (Collection charge communal letter (appendix 12)).

## 8 Record Keeping

Information regarding enforcement cases will kept in secure electronic folders and any hard copies will be kept in a locked cabinet in a secure room. Cases that result in an enforcement action will be kept for a maximum of 5 years. Where an investigation does not result in an enforcement action, the record will be for 3 years.

### Appendices

|            |  |
|------------|--|
| Appendix 1 | S9 Witness statement form<br><br><a href="#">Appendix 1 - Witness statement Form 2.doc</a> |
| Appendix 2 | PACE interview procedure<br><br><a href="#">Appendix 2 - PACE</a>                          |
| Appendix 3 | DWP Abandoned vehicle report sheet<br><br><a href="#">Appendix 3 - DWP ABV Sheet.pdf</a>   |

|             |   |
|-------------|---|
| Appendix 4  | DWP Abandoned vehicle letter to registered keeper<br><br><a href="#">Appendix 4 - DWP ABV Template Letter.doc</a>     |
| Appendix 5  | Abandoned vehicle spreadsheet<br><br><a href="#">Appendix 5 - Copy of abandoned Vehicle spreadsheet 2017 - 18.xls</a> |
| Appendix 6  | ABV Form A<br><br><a href="#">Appendix 6 - ABV Blank Form A .xls</a>  |
| Appendix 7  | Fly tipping warning letter<br><br><a href="#">Appendix 7 - Fly tip template letter.doc</a>                            |
| Appendix 7a | S108 invitation to interview<br><br><a href="#">Appendix 7a - S108 Invitation To Interview.doc</a>                    |
| Appendix 8  | DWP Case file template<br><br><a href="#">Appendix 8 - DWP Case file template.doc</a>                                 |
| Appendix 8a | Civil penalty notice<br><br><a href="#">Appendix 8a - Civil penalty notice.docx</a>                                   |
| Appendix 9  | Community Protection Notice<br><br><a href="#">Appendix 9 - DWP CPN WARNING.docx</a>                                  |
| Appendix 10 | Community Protection Warning<br><br><a href="#">Appendix 10 - DWP CPN NOTICE.docx</a>                                 |

|             |   |
|-------------|---|
| Appendix 11 | <p>S46 Notice</p> <p><a href="#">Appendix 11 - Section 46 Notice v1.doc</a></p>   |
| Appendix 12 | <p>R4D letters</p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Bins too heavy letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Bins too heavy letter 2.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Collection point for emptying containers and sacks letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Collection point for emptying containers and sacks letter 2.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Containers left on highway between collections letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Containers left on highway between collections letter 2.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Contaminated communal recycling bin letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Contaminated communal recycling bin letter 2.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Contaminated household recycling bin letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Contaminated household recycling bin letter 2.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Non DWP sacks or containers letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Non DWP sacks or containers letter 2.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Side waste letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Side waste letter 2.doc</a></p> <p><a href="#">Appendix 12 - Collection charge residential.doc</a></p> <p><a href="#">Appendix 12 - Collection charge communal.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Blocked in communal rubbish bins letter 1.doc</a></p> <p><a href="#">Appendix 12 - R4D Letters\Appendix 12 - Blocked in communal rubbish bins letter 2.doc</a></p> |



|             |   |
|-------------|---|
| Appendix 13 | S46 Written warning<br><a href="#">Appendix 13 - Written Warning v1.doc</a>   |
| Appendix 14 | S46 Notice of intent<br><a href="#">Appendix 14 - Notice of Intent v1.doc</a> |
| Appendix 15 | S46 Final notice<br><a href="#">Appendix 15 - Final Notice v1.doc</a>         |
| Appendix 16 | Simple caution<br><a href="#">Appendix 16 - Simple caution.docx</a>           |

# Equality Impact Assessment

## Section 1 - Context Setting

### 1. Title of strategy, policy, project, service (Now known as 'the proposal')

Review of Enforcement Policy and Procedures and Guidelines – the paper to be presented to the Joint Committee on 6th November recommends a harder line approach to waste crimes and waste collection offences i.e. issuing of warnings, Fixed Penalty Notices, prosecutions and waste collection charges where applicable.

This will enable the DWP to deal with waste crimes appropriately and proportionally.

### 2. Service and lead officer:

Gemma Clinton, Head of Service (Strategy), Dorset Waste Partnership

### 3. Officers involved in the EqIA:

Lisa Mouny / Louise Bryant, Service Development Manager

### 4. What does the proposal assess?

Existing:

New/proposed:

Changing/Update/revision

Other

please list below

### 5. What are the aims and objectives of the proposal?

The Enforcement Procedures and Guidelines document details the core functions of the enforcement team as follows:

- Abandoned Vehicles
- Fly tipping
- Dropping litter
- Powers to prevent littering
- Duty of care compliance checks
- Waste collection related offences – Recycle for Dorset offences

For each function the document details the relevant legislation, the type of enforcement action available and the procedure that will be followed in order for suspected perpetrators to be dealt with in the most appropriate manner.

Currently, our approach to enforcement has been to provide informal advice and guidance with warning letters sent out where appropriate. The revised procedures will provide us with the tools to enable a more hard line approach to waste enforcement involving the issuing of warnings, Fixed Penalty Notices, prosecution through the courts and waste collection charges.

All enforcement action taken by the DWP will be with regard to the relevant statutory provisions and their amendments. The DWP has key legislative powers, under the Environmental Protection Act 1990 (EPA 1990), Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) and other legislation relating to the environment. These offer a wide range of powers to enable the DWP to fulfil the duties for which it is responsible.

For example, under Section 46 of the Environment Protection Act, a Council may serve notice on the occupiers of the premises from which it collects household waste, requiring those occupiers to place their waste in receptacles of a particular kind and of a particular number. The council may specify the size, type and colour of these receptacles, and how these containers are presented. A failure to comply with requirement a local authority has made is an offence and enforcement action can be taken.

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

**6. Who will be involved in the implementing and/or delivery of the proposal?**

DWP officers only

**7. Who could be impacted (either negative or positive) with the implementation of the proposal?**

**(For example, public, visitors, staff members or partners)**

The implementation of this proposal will primarily impact upon those perpetrators that are responsible for a waste crime and commit an offence under the relevant environmental legislation.

With regards to waste collection offences, the DWP's intention remains to resolve issues, where appropriate, by information, advice and education. A staged approach will be followed whereby offenders are issued with warnings to allow them an opportunity to rectify their behaviour and comply with the requirements of the law. Only in cases of persistence or severe non-compliance will enforcement action be taken.

On a positive note, the more hard lined approach towards environmental enforcement will result in a cleaner environment with less incidences of fly-

tipping, litter, waste contamination and abandoned vehicles – this will benefit all Dorset residents.

With regards to fly-tipping in particular, the current occurrence of incidences is costing money to the local taxpayer – it is resulting in costs for the DWP in clearance and disposal costs of approximately £130K per year. On a national scale, the estimated cost of clearance of fly-tipping to local authorities in England in 2014/15 was nearly £50 million, an 11% increase on 2013/14. The reduction in environmental crime through enhanced enforcement will deliver savings.

## Section 2 – Information Gathering

### 1. What data, information, evidence, research was used in this EqIA and how has it been used to inform the decision making process?

Monthly figures are held for the number of abandoned vehicles reported, flytip incidents and the costs of clearing these. We are also maintain records of the number of enforcement actions undertaken. Historically, the number of enforcement actions has been low whilst the incidences of crime are now rising. This is therefore being tackled by the revision of the policy and procedures documents, which is also being supported by an increase in resource in this area.

Various pieces of environmental legislation (including Environmental Protection Act 1990, Controlled Waste Regulations 2012, Refuse (Disposal) Amenity Act 1978 and the Deregulation Act 2015) and DEFRA guidance have been used to formulate the procedures. Legal guidance has also been sought from legal experts at Keep Britain Tidy.

### 2. What data do you already have about your service users, or the people your proposal will have an impact on?

Information is held in the Dorset data book about the number of juveniles across the County.

The DWP holds an extensive household waste database which includes details of all households which currently have a non-standard variation of the 'Recycle for Dorset' service. This may be used when looking into waste collection offences.

### 3. What engagement or consultation has taken place as part of this EqIA?

Although the community have not been directly engaged in the development of this proposal, the DWP will endeavour to feedback the outcomes through use of newsletter articles, press releases, information on the website and various educational roadshows that are held across the County. Information regarding enforcement would also be made available through contact with residents e.g. talks and presentations.

A DWP customer satisfaction was undertaken during summer 2017. In this survey, 39.1% of residents indicated that flytipping was a problem in their area. 15.4% of residents also viewed their local area to be unsatisfactory in terms of the level of cleanliness. Both of these issues will be tackled through this revised enforcement policy.

### 4. Is further information needed to help inform this proposal?

No.

## Section 3 – Assessing the Impact

Section 149 of the Equality Act 2010 states that a public authority must in carrying out its functions have due regard to the need to:

- Eliminate all forms of discrimination; harassment and victimisation that are prohibited by the Equality Act 2010.
- Advance equality of opportunity.
- Foster good relations.

### 1. What does the consultation, data, evidence tell us about the likely impact on any equality group?<sup>1</sup> (Please include a summary of the data used, an attachment or link to it)

| Protected characteristic   | Positive impact          | Negative impact                     | Neutral impact                      | Unclear                  | Please explain the impact   |
|--|--------------------------|-------------------------------------|-------------------------------------|--------------------------|---|
| Age  | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | The proposal may have a negative impact on juveniles and their families.  |
| Disability   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |   |
| Gender Identity  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |   |
| Pregnancy and Maternity  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |   |
| Race and Ethnicity   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |   |
| Religion or Belief   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |   |
| Sex  | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |   |
| Sexual Orientation   | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |   |
| Other socially excluded groups (Carers, rural isolation, low income, armed forces personnel) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | The proposal will have a negative impact on families on low income as they may struggle to seek the appropriate funds to pay a fixed penalty notice or a fine imposed by the prosecution courts |

## Section 4 - Action Plan, Monitoring and Communication

What plans do you have in place, or are developing, that will mitigate the likely identified negative impacts?

<sup>1</sup> This will include impacts upon workforce including staff transferring under TUPE to a new service provider

| Objective / Outcome                           | SMART Action  | Lead officer                               | Deadline       |
|---|---|--|----------------|
| <p>Minimise impact to low income families</p> | <p>Where appropriate, the enforcement team will initially provide advice and information to those who commit an offence. The procedures involve a 'staged approach' whereby perpetrators receive a warning prior to a FPN being issued or court proceedings starting.</p>   | <p>Jason Dobson /<br/>Jeremy Gallagher</p> | <p>Ongoing</p> |
| <p>Minimise impact to juvenile offenders</p>  | <p>No juvenile (a person aged under 17) or mentally impaired person should be interviewed without an appropriate adult being present.</p> <p>For offenders between 10 and 15 years old, an FPN should not normally be issued. If on enquiry it is found that an FPN is suitable, then the notice should be issued to the offender with an appropriate adult being present.</p> <p>For offenders aged 16 or 17 years old, an FPN can be issued using the same procedure as for adults.</p> | <p>Jason Dobson /<br/>Jeremy Gallagher</p> | <p>Ongoing</p> |

1. Good communication is essential to help ensure that the proposal is correctly implemented. **How will this proposal be communicated?**

All enforcement related information is detailed on our website including the different areas of enforcement the DWP cover, the FPN charges, etc. We also send out warning letters prior to further enforcement action being taken outlining the offence committed and the consequences of further non-compliance.

2. The full impact of the proposal may only be known after the proposal has been implemented. **How will the impact of the proposal be monitored?**

The number of enforcement actions will be monitored continuously through the use of LAGAN. LAGAN will also be used to monitor any complaints relating to the proposal.

The expectation is you will continue to work with the communities you engaged with in this proposal. Please use this space to include how the outcome of consultation will be fed back to those who you consulted with.

Although the community have not been directly engaged in the development of this proposal, the DWP will endeavour to feedback the outcomes through use of newsletter articles, press releases, information on the website and various educational roadshows that are held across the County. Information regarding enforcement would also be made available through contact with residents e.g. talks and presentations.

A DWP customer satisfaction was undertaken during summer 2017. In this survey, 39.1% of residents indicated that flytipping was a problem in their area. 15.4% of residents also viewed their local area to be unsatisfactory in terms of the level of cleanliness. Both of these issues will be tackled through this revised enforcement policy.

## **Section 5 - Decision Making Process**

After consideration please state your final recommendations based on the findings from this EqIA. This will be used to inform the decision-making process. Include any examples of good practice and positive action taken.

The impact of this proposal is minimal. The recommendation is therefore to proceed.

**This EqIA was signed off by Karyn Punched Director of Dorset Waste Partnership**

**Date: 13 October 2017**

**Action Plan review date: October 2019**



