

London Borough of Camden

Local Environmental Quality Enforcement Policy

Version 3 – Updated September 2022

1. Introduction

- 1.1 [We Make Camden](#) is a shared promise to protect what is special about Camden and sets out five ambitions which cannot be achieved by Camden alone but how every resident and organisation that has their home in Camden and is part of the community has a role to play in achieving the real change that is needed.
- 1.2 One of the five ambitions is ‘Camden should be a green, clean, vibrant, accessible and sustainable place with everyone empowered to contribute to tackling the climate emergency’. We are proud of Camden’s public spaces and want to ensure that they support the health and wellbeing of everyone who uses them. That means everyone working together to keep them clean, safe and accessible. It also means being tough on those who disrupt our streets by littering and fly-tipping and making sure that the council services are responsive in keeping our streets clean.
- 1.3 There is a large body of evidence to show that local environmental quality (LEQ) issues can have a significant detrimental impact on local communities. For example, graffiti is not just criminal damage to someone else’s property; it is also a signal that can encourage further vandalism and more serious crimes. The prevalence of LEQ issues such as litter, fly-tipping, graffiti, and flyposting in an area can leave local communities feeling forgotten, impacting on perceptions of place and quality of life. Everyone has a personal responsibility to manage their waste responsibly and keep public spaces free of litter, fly-tips, dog fouling, graffiti and flyposting to help keep our streets clean.
- 1.4 There is legislation that regulates local environmental quality and activities associated with the care and maintenance of streets and public places, including enforcement powers to take action against those who disrupt our streets. The Environmental Protection Act 1990 places a statutory duty on Camden Council to ensure that the roads and highways for which we are responsible are kept clear of litter and waste as far as it is reasonably practicable and to arrange for the collection of household waste.
- 1.5 This policy sets out how we use the powers and tools to ensure enforcement work is carried out in an effective, consistent, proportionate, and fair manner. We are committed to observing the Principles of Good Enforcement, as set out in the Enforcement Concordat: Good Practice Guide for England and Wales, produced by the Government’s Better Regulation Unit; and the *Regulators’ Code*, published by the Department for Business, Innovation and Skills.

2. Principles of Good Enforcement Policy and our commitment

2.1 Standards

- 2.1.1 We use best practice and follow legal advice with an aim to deliver a high standard service.

2.2 Openness

- 2.2.1 We provide information and advice to residents, businesses, and visitors on good practice, their responsibilities, obligations and what constitutes an offence in terms of waste management, litter control, fly tipping and other LEQ issues. This includes providing information and advice on our website, in local newspapers, letters, and signs on our streets. We will provide information and advice in plain English where possible.

- 2.2.2 Authorised officers or any agency officers authorised by the council that carry out enforcement on behalf of the authority will always carry and present on request identification and warrant cards.

- 2.2.3 Offences are identified in response to complaints/intelligence, through daily patrols, planned projects, planned enforcement exercises and regular routine inspections. When an offence has been identified, officers will seek to establish evidence which may include opening any sealed bags, taking photographs, and speaking or writing to witnesses. We may also use cameras at known fly-tipping hot spots.

- 2.2.4 We believe that public information about enforcement is important to maintain confidence and will provide data on enforcement actions.

2.3 Helpfulness

- 2.3.1 Prevention is better than cure and our role involves working with businesses, to advise and assist. We provide a courteous and efficient service, staff will identify themselves by name and provide contact details for further enquiries, advice and general issues.

- 2.4 **Complaints about service** - We provide a complaints and appeals process to businesses and the public.

- 2.5 **Proportionality** – We undertake enforcement action in a reasonable, consistent, and appropriate manner which is proportionate to the risk/impact posed by the offence. However, in most circumstances the council will:

- Take a zero-tolerance approach to commercial operators who must have a registered waste carrier by law and are therefore expected to be aware of their waste responsibilities
- Pursue prosecution action even if it is the first offence where there is a deliberate disregard for the law for example if the waste is considered hazardous or dangerous or where the volume of waste is considered excessive
- We reserve the right to take firm and immediate action whenever necessary without offering prior advice or guidance when significant threats are posed to the environment or public safety or when the Council must deal with offences that are prevalent in the area.

- 2.6 **Consistency** - We will carry out our duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaising with other authorities and enforcement bodies through schemes and planned enforcement campaigns.

3. Enforcement Powers

3.1 The Council defines 'enforcement' as all actions that we may take to achieve compliance with legislation. The enforcement action taken will be in proportion to the severity of the crime and are outlined in table 1.

3.2 Table 1: Enforcement Actions

Action	Comments
Education	General awareness raising activities offering guidance and support, and include such things as media campaigns, attendance at community events and residents' meetings, and providing residents, businesses, and visitors with appropriate information about the impact of certain activities.
Engagement	Providing feedback and being accountable to communities, residents, and businesses. Officers, staff, and volunteers supporting communities, residents and businesses where appropriate, to be more active in the improvement of their local areas.
Advice	General written or verbal advice given, often in response to minor issues of non-compliance, clearly and unambiguously setting out the standards required by the Council and offering advice and assistance with compliance.
Community Protection Warning Notice (CPW)	A formal written warning given imposing statutory requirements, often issued in response to more serious breaches of standards and often with a stipulation that compliance be achieved within a specified period.
Community Protection Notice (CPN)	A formal notice given on any occasion when there is non-compliance with a CPW, breaches of conditions of compliance or failure to comply with a CPN will result in a fixed penalty notice or prosecution. Mainly for offences occurred on private lands and private forecourts.
Fixed Penalty Notice	A formal notice given on any occasion when there is a reason to believe that a person has committed an offence and offering that person the opportunity of discharging any liability to conviction by payment within a specified period.
Prosecution	Action taken in response to serious or prevalent offences, breaches of conditions of compliance or a failure to comply with a CPN or a fixed penalty notice.

3.3 The Council's decision on what level of enforcement action is necessary will consider

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

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

4. Fixed Penalty Notices

4.1 The Council will issue a fixed penalty notice for the environmental offences in table 2 in line with national guidance.

4.2 Table 2: Environmental Offences

Description of offence	Offence	Legislation	Full amount of penalty	Amount of penalty if paid within 10 days	Maximum Penalty on Conviction
Litter consists of waste products that have been discarded incorrectly, without consent, at an unsuitable location. Cigarette Ends, Takeaway containers, chewing gum and chocolate wrappers.	Leaving litter	Section 87/88 (1) Environmental Protection Act 1990	£100	£80	£2,500
Graffiti, is a form of visual communication, usually illegal, involving the unauthorized marking of public space by an individual or group.	Graffiti	Section 43/44 Anti-Social Behaviour Act 2003 as amended	£80	£50	£2,500
The posting of advertising or political bills, posters, etc in unauthorized places.	Fly posting	Section 43/44 Anti-Social Behaviour Act 2003 as amended	£80	£50	£2,500
Waste Carrier Licence for England & Wales. If you're transporting waste as a business. The Environment Agency Requires You to Have This Licence To fulfil your Legal Requirements.	Failure to produce waste carriers' licence	Section 5/5B Control of Pollution (Amendment) Act 1989	£300	£180	Unlimited
Correct presentation of waste information	Failure to comply with a section 47 notice	Section 47/47ZB Environmental Protection Act 1990	£110	£80	Unlimited
Selling a car in the street is being interpreted as 'street trading' leaving the culprit liable to a fine. The same Act gives the local authority the right to seize any goods being sold and to dispose of them if the offence	Exposing vehicles for sale on a road	Section 3 & 6 (1) Clean Neighbourhoods and Environment Act 2005	£100	£60	£2,500

is proved. This gives them the power to tow your car away and crush it...					
It is illegal to trade, sell or repair vehicles on the public highway or other public places without the appropriate Council trading licence ...	Repairing vehicles on a road	Section 4 & 6 (1) Clean Neighbourhoods and Environment Act 2005	£100	£60	£2,500
Businesses are being reminded by the Council that transferring waste to an unregistered carrier or failure to provide an accurate Waste Transfer Note is criminal offence and can result in a £300 Fixed Penalty Notice or if found guilty in court fine is unlimited.	Failure to produce a waste transfer note	Section 34 Environmental Protection Act 1990	£300	£180	Unlimited
Fly-tipping is defined as the 'illegal deposit of any waste onto land that does not have a licence to accept it'. Tipping a mattress, electrical items or one bag of rubbish, to a bed, or several bags of builder's rubble	Depositing controlled waste without authority	Section 33 (1)A Environmental Protection Act 1990	£400	£200	Unlimited
Community Protection Notice. The community protection notice is intended to deal with unreasonable, ongoing problems or nuisances which negatively affect the community's quality of life. Mainly for offences occurred on private lands and private forecourts.	Breach of or failure to comply with a CPN	Section 48/52 Anti-social Behaviour, Crime and Policing Act 2014	£100	£80	£2,500

- 4.3 There are no formal grounds of appeal against a fixed penalty notice. This is because a fixed penalty notice is an invitation for the offender to discharge their liability to prosecution by payment of the full amount of the penalty. In essence, this means that whilst this is not an admission of their guilt, they do agree that an offence has been committed and that by paying the sum of money specified that no further action will be taken by or on behalf of the Council.
- 4.4 If the offender does not agree that an offence has been committed and they do not pay the fixed penalty notice within the time allowed, a summons will be issued against them and the case will be heard in the Magistrates' Court. If convicted, they could be fined and be ordered to pay the costs of the prosecution.

5 Use of Income

- 5.1 The Council will use the income received from fixed penalty notices on functions relating to litter, waste, graffiti and fly posting to help keep Camden's public spaces clean, safe and accessible for everyone. Under no circumstances will the Council use fixed penalty notices for these offences as a means to generate income.

6 Prosecutions

- 6.1 Where there is sufficient evidence, and the public interest test is met, the Council will normally prosecute in any of the following circumstances taking into account *The Code for Crown Prosecutors*:
- Serious or prevalent offences with significant actual or potential impacts on the environment and/or public safety.
 - Failure to comply with a CPN.
 - Failure to discharge liability to conviction by payment of a fixed penalty notice within specified timescales.
 - Failure to supply information without reasonable excuse or knowingly supplying false or misleading information; or
 - The offender has previously been issued with a fixed penalty notice for the same offence.
- 6.2 Where a company is involved, it will be usual practice to prosecute the company. However, where individuals have caused offences, then we will consider prosecuting those individuals. The Council will also consider the part played in the offence by directors and managers, and action may be taken against such persons if appropriate.
- 6.3 Where an offence is of special gravity, the Council will consider requesting magistrates to refer the case to the Crown Court, where appropriate.

7 Legislation

- 7.1 The main legislation that seeks to regulate local environmental quality and activities associated with the care and maintenance of streets and public places is the Environmental Protection Act 1990 and the Clean Neighbourhoods and Environment Act 2005.
- 7.2 Camden Council is a principal litter authority with a statutory duty under the provisions of the Environmental Protection Act 1990 to ensure that 'relevant land in its area is, so far as is practicable, kept clear of litter and refuse'. In broad terms relevant land is defined as all open land to which the public are entitled or permitted to have access without payment. This includes cleaning responsibilities for adopted highways, but not private land.

7.3 Other important provisions and powers in respect of environmental control and enforcement is included also in a wide variety of other legislation and associated regulations, in particular:

- Environmental Protection Act 1990
- Control of Pollution (Amendment) Act 1989
- London Local Authorities Acts 1990, 1994, 2004 and 2007
- Clean Neighbourhoods and Environment Act 2005
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Anti-Social Behaviour, Crime and Policing Act 2014
- Highways Act 1980
- Refuse Disposal Amenity Act 1978 and 1987
- Town and Country Planning Act 1990
- The Anti-Social Behaviour, Crime and Policing Act 2014

8 Complaints

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

8.2 By post:

Head of Street Environment Services
Floor 8
5 Pancras Square
King's Cross
London
N1C 4AG

8.5 By phone: 020 7974 4444

8.6 By email: street.environment@camden.gov.uk

8.7 Any complaint will be investigated, and we will send you a response within 15 working days. If you are not satisfied with the response, you have the right to refer your complaint to a higher level through the Council's Complaints Procedure. If you would like a copy of the Council's Complaints Procedure or need help or advice about making a complaint you can contact:

By post Complaints Liaison Officer
Supporting Communities
5 Pancras Square
King's Cross
London
N1C 4AG

Online using the on-line complaints form found on Camden's website at camden.gov.uk