

Waste Enforcement Policy 2016



Introduction

Westminster City Council, as a Waste Enforcement Authority, has a duty placed on it by the Environmental Protection Act 1990 to manage and regulate waste. The Council is committed to maintaining a clean and safe environment for the benefit of everyone in the City. This commitment recognises our responsibility to keep the streets and local environment clear of litter, and other local environmental quality issues.

The Council's 'City For All' strategic vision recognises that residents, visitors and businesses want clean streets, less litter, less graffiti and attractive parks and open spaces. A cleaner and safer environment helps people to feel safer and less fearful of crime, improving the quality of life for all those who live, work and visit the City.

Our approach is to work with residents and businesses to ensure compliance, and this is primarily done through information and advice. However, where necessary, enforcement will be undertaken.

In the City of Westminster, the officers authorised to carry out enforcement are the City Inspectors. City Inspectors cover the entire City and work locally in each ward, and on market sites, as well as providing a 24/7 response service.

Enforcement ensures that those individuals and/or businesses that spoil the environment are made accountable for their actions. The Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act (CNEA) 2005 and the Control of Pollution (Amendment) Act 1989, introduced powers and tools for local authorities to help tackle local environmental issues such as fly-tipping and waste.

This policy sets out how we will use the powers available to ensure an effective, consistent and clear approach to enforcement.

Our Policy aims and objectives

- We will assist businesses and others to meet their legal obligations through education and advice.
- We will support businesses and residents to be aware of what constitutes an offence.
- We focus on prevention rather than cure;
- We take firm action against those who flout the law and take enforcement action as necessary
- We will ensure enforcement action is proportionate, consistent and fair.

KEEPING OUR STREETS CLEAN

Waste and Duty of Care

Everyone has a duty of care, which is a legal requirement, to prevent the escape of **controlled waste**. This means taking all reasonable steps to ensure that waste is disposed of safely and correctly. **Controlled waste** is household, industrial and commercial waste.

For residents this means ensuring waste is placed in appropriate bags and bins and put out for collection at the specified collection times. Businesses must have a registered waste carrier to collect and dispose of their waste.

Failure to comply with the general requirements above, can lead to immediate prosecution under section 34 of the Environmental Protection Act (EPA) 1990.

More information on Duty of Care can be obtained from DEFRA (Department of Environment, Fisheries and Rural Affairs) at www.defra.gov.uk/environment/waste/legislation/duty.htm

Fly-tipping

Fly-tipping is an offence under Section 33 of the Environmental Protection Act (EPA) 1990

Section 33 states that a person shall not deposit **controlled waste** or knowingly cause or permit controlled waste to be deposited in or on any land, without an environmental permit authorising the deposit.

A person who commits an offence under section 33 of the EPA 1990 is liable, on summary conviction, to either a term of imprisonment, not exceeding 12 months or a fine or both,

Or

on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

Anyone found to be disposing of large items, builders' waste, cardboard/boxes of waste, and multiple bags (including recycling bags) on the public highway including alongside MRC (Micro Recycling Centres) or BBBs (Big Black Bin sites) is fly-tipping.

A person who commits a Section 33 offence can be prosecuted or issued with a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice (FPN) will be issued at the levels shown on Appendix One of this policy.

Littering

Section 87 of the Environmental Protection Act provides that a person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any place to which this section applies and leaves it. This section applies to any place which is open to the air to which the public has access, with or without payment.

Litter includes materials often associated with smoking, eating and drinking, including cigarette butts and chewing gum.

A person guilty of an offence is liable to a fine of up to £2500.00 and the Council may prosecute or issue a Fixed Penalty Notice giving the opportunity of discharging liability to conviction for the said offence by payment of a fixed penalty.

The Fixed Penalty Notice will be issued at the levels shown on Appendix One of this policy.

Information for residents

All streets within Westminster have scheduled waste collection times for household, commercial waste and recycling. Many streets have a number of collections throughout the day. Detailed information on collection times and how to present waste can be found on www.westminster.gov.uk

Duty of Care: For residents this means ensuring waste is placed in appropriate bags and bins and put out for collection at the specified collection times.

We acknowledge that in some circumstances the collection times for some streets may not be convenient for everyone. We would suggest that in these circumstances it may be more convenient for residents to take waste/recycling to an alternative street in the local area which has collection times more suitable for individual needs.

Alternatively, residents can also use the Micro Recycling Centres ((MRC) or the Big Black Bins (BBB) in their area. Please note waste cannot be left alongside an MRC or BBB if they are full or locked. Waste left alongside an MRC or BBB is **fly-tipping**. Fly-tipping can result in either a Fixed Penalty Notice being issued or prosecution.

Waste left outside of collection times

All areas within Westminster have scheduled collection times. Details regarding collection times can be found on the Council website www.westminster.gov.uk. Waste needs to be presented no earlier than 30 minutes prior to the collection time.

Waste found to be incorrectly presented or outside of the scheduled collection times, will be issued with a warning notice under Section 46 of the Environmental Protection Act 1990 amended under section 58 Of the

Deregulation Act 2015 In cases where further instances of waste are found for the same resident a Fixed Penalty Notice will be issued.

Household furniture, household clearances, white goods, builders waste and other bulky items will not be collected during routine collections. These items need to be disposed of using a registered waste carrier, or by arranging a bulky goods collection from the council through the council website www.westminster.gov.uk. If these items are found on the public highway or at Micro recycling centres they will be enforced against as Fly-tipping. Multiple bags left on the highway outside of collection times may also be considered as fly-tipping.

Information for Businesses

Waste left outside of collection times

All streets within Westminster have scheduled waste collection times for commercial waste and recycling. Details regarding collection times can be found on the Council website www.westminster.gov.uk. Waste found outside of these collection times can be enforced against.

Commercial waste, including recycling waste, when presented on the street for collection must clearly indicate the registered waste carrier who will collect it.

All businesses must comply with the time band restrictions in their area.

Bags off Streets scheme (BOS)

Westminster has a number of important main roads within the City and therefore operates a "Bags off Street" scheme. The scheme operates on streets in the central area of Westminster as well as the main commercial streets in the outer areas of Westminster. This means that any waste, regardless of whether they are collected by Westminster or a private collector can only be presented in the specific timed slots, called "time bands".

Bags or containers should be placed out on the public highway no earlier than 30 minutes before the collection time(s).

In all other streets private waste carriers must collect waste within 2.5 hours of the waste being placed out for collection.

All Westminster Commercial Waste customers must comply with the time bands in their area.

Detailed information on collection times and how to present waste can be found on www.westminster.gov.uk

Waste found to be incorrectly presented or outside of the scheduled collection times, may be issued with a Fixed Penalty Notice under Section 47 of the Environmental Protection Act 1990.

All unmarked Commercial Waste will be treated as fly-tipping. Fly-tipping can result in either a Fixed Penalty Notice being issued or prosecution.

Waste Transfer Note (registered waste carrier)

All businesses operating in Westminster City must have a registered waste carrier to collect waste. The carrier must be authorised to take the waste, for recycling or disposal.

Who has the authority to collect waste?

- Council waste collectors
- Registered waste carriers
- Registered waste broker (arranges the recycling/disposal of waste for others)

A list of registered waste carriers can be found Environmental Agency website below:

www.gov.uk/government/organisations/environment-agency

Under [Section 34 of the Environmental Protection Act 1990](#), businesses have a Duty of Care to take all reasonable steps to keep waste safe. If you employ a waste carrier to take your waste, you must be sure they are authorised to take it and can transport, recycle or dispose of it legally and safely.

All businesses must have two years evidence of their waste management arrangements; this is known as a Waste Transfer Note. Westminster City Inspectors regularly monitor businesses to ensure they are fulfilling their obligations under the Environmental Protection Act 1990. This can result in a request to see a copy of any Waste Transfer Notes.

Failure to provide a **Waste Transfer Note** (WTN) within the specified time period can result in Fixed Penalty Notice (CN12) being issued or prosecution.

The period allowed by the Council for the business to comply is 7 days.

Making Representations against a Fixed Penalty Notice

Fixed Penalty Notices are an opportunity to discharge any liability to conviction.

There is no right of appeal against the issue of a fixed penalty notice issued under The Environmental Protection Act and failure to pay may result in prosecution. However, Westminster City Council will consider any written representations on an informal basis in the interest of fairness. All representations must be made in writing to the Waste Enforcement Team (FPN representation), Public Protection & Licensing, 5th Floor South, 64 Victoria Street, London, SW1E 6QP.

If you are issued with an FPN you have 14 days from the date of issue to pay the fixed penalty notice. However if you pay within 10 days you may pay a reduced rate. Fixed Penalty Notices can be paid by making a telephone or online payment.

Failure to pay a fixed penalty notice issued by the Council may result in prosecution.

Where there are cases of persistent or serious offences including multiple Fixed Penalty Notices (paid or unpaid) Westminster City Council may take legal action in the form of a prosecution.

Appendix One

Offence Type	Description	Level of Penalty Charge	
		RESIDENT	COMMERCIAL
EPA s87	Littering - detritus from eating /drinking/gum/cigarette butts	£80 with a reduction to £50 for early repayment	N/A
EPA s33	Fly-tipping – illegal dumping of waste. To apply to : one bag or more (including recycling bags) large items, white goods, cardboard on the public highway and waste found alongside Big Black Bins and Micro Recycling Centres.	First offence for household waste – FPN £200 with a reduction to £120 for early repayment Second Offence – FPN £400 with a reduction to £240 for early repayment Subsequent offences - prosecution	First offence for Trade/business waste – FPN £400 with a reduction to £240 for early repayment Subsequent offences – prosecution
EPA s34	‘Duty of Care’ – Applies to all (residents and businesses). The duty of care; is a legal requirement, to prevent the escape of controlled waste . Controlled waste is household, industrial and commercial waste. Failure to take all reasonable steps to ensure that waste is disposed of safely and correctly under this section can result in prosecution for persistent offenders irrespective of paid or unpaid fixed penalty notices or production of waste transfer note	Level of charge will be dependent on the original offence e.g. £80 for littering FPN or £200 for fly-tipping plus possibility of prosecution	Level of charge will be dependent on the original offence e.g. £80 for littering FPN or £200 for fly-tipping plus possibility of prosecution

EPA s34 (A)	'Duty of Care' – requirement to provide evidence of waste management arrangements within specified time period (7 days)	N/A	<p>Failure to provide evidence results in a FPN £300 with a reduction to £180 for early repayment</p> <p>Payment of a FPN does not discharge the need to prove a registered waste carrier. Continued failure to provide evidence will result in prosecution.</p>
EPA s46	Requirement for household waste to be placed in appropriate receptacles and at specified collection times	<p>First offence - Warning notice valid for 1 year.</p> <p>Subsequent offences – FPN £110 with a reduction to £75 for early repayment.</p> <p>No prosecution permitted civil debt recovery only.</p>	N/A
EPA s47	Requirement for commercial waste to be placed in appropriate receptacles and at specified collection times	N/A	<p>First and second offences – FPN £110 with a reduction to £75 for early repayment.</p> <p>Subsequent offences can lead to prosecution.</p>