

# **Staffordshire Moorlands District Council**

## Policy on Littering within the District

### **IN BRIEF**

- Littering is illegal.
- The Council operates a zero tolerance approach to littering.
- Enforcement is carried out by Officers of the Council.
- Uniformed Council staff members who work in the community are expected to try and obtain the details of anyone they see littering during the course of their duties and to report these details to the Council's enforcement service.
- Anyone who is responsible for littering may be issued with a fixed penalty notice and may be liable to prosecution.

### **1 Introduction**

This policy has been produced to support the Council's commitment to keep the District clean and safe for all.

The purpose of the policy is to ensure that the Council follows a standard approach to responding to littering within the District. In particular it is intended to ensure that any enforcement decisions are consistent, balanced, fair, transparent and proportional.

It recognises that each case is unique and must be considered on its own merits but sets out the general principles that will be applied by the Council's officers.

This document should be read in conjunction with the Council's General Policy Statement on Enforcement.

## **2 What is Littering?**

There is no statutory definition of litter but section 87 of the Environmental Protection Act 1990 (EPA) refers to "any thing whatsoever that could cause or contribute to defacement".

The main types of litter that were found in England in 2009/10, according to a survey by Keep Britain Tidy, were smokers' materials, confectionary packaging, alcoholic and non-alcoholic drink containers, fast food and snack packaging, discarded food/drink and till receipts. Other types of litter included chewing gum, plastic bags and newspapers.

Natural matter, such as overgrown vegetation, weeds or leaves that have fallen from trees, is not classed as litter. Dog faeces are classed as 'refuse' and are subject to different laws.

Large-scale deposits of waste items can be classified as litter but the Council would normally deal with such deposits using its powers for dealing with fly-tipping.

## **3 Legislation**

The main legislative powers in relation to littering are as follows:

### *3.1 Environmental Protection Act (EPA) 1990*

Part IV of the EPA introduced a number of provisions relating to litter:

- Section 87 defines the offence of littering as the throwing down, dropping or depositing of litter on any publicly accessible land open to the air, including land covered by water, and leaving it. A litter offence can be prosecuted through a magistrates' court and carries with it a maximum fine of level four on the standard scale (currently £2,500).
- Section 88 allows authorised officers to issue a Fixed Penalty Notice (FPN) as an alternative to prosecution. It is an offence if a person to whom an authorised officer proposes to give a Fixed Penalty Notice fails to give the officer his true and correct name and address details.

- Sections 92A and 94 allow litter authorities to serve a Litter Clearing Notice (LCN) in relation to any land in its area which is open to the air and that is defaced by litter or refuse so as to be detrimental to the amenity of the locality. The notice must be served on the occupier of the land (or owner in the case of unoccupied land) and can require the person on whom it is served to a) clear the land of the litter or refuse; and b) take reasonable steps to prevent it from becoming so defaced. Under Section 92B, a person is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale if he fails without reasonable excuse to comply with any requirement imposed by a littering clearing notice. An authorised officer is able to give a person that fails to comply with a LCN the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- Under Sections 93 and 94, litter authorities can issue a Street Litter Control Notice (SLCN) that requires owners or occupiers of certain types of commercial premises to prevent or remove accumulations of litter where there is recurrent defacement by litter of open land in their vicinity. There is no requirement for evidence to connect specific litter to specific premises. A person found guilty of failing to comply with a SLCN is guilty of an offence and may be given a fine of up to level four on the standard scale (currently £2,500). An authorised officer is able to give a person that fails to comply with a SLCN the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- Under Section 94B and Schedule 3A local authorities can designate areas by Order, where it is an offence to distribute free printed materials such as leaflets and flyers. It is an offence for a person to distribute any free printed matter, or to cause another person to do so, without the consent of the Authority, on any land that the Authority has designated under this Schedule.

### *3.2 Clean Neighbourhoods and Environment Act (CNEA) 2005*

The CNEA amended many of the powers available to local authorities under the EPA 1990 to carry out enforcement actions. The amended provisions include:

- Introducing Litter Clearing Notices and strengthening Street Litter Control Notices (including the ability to issue fixed penalty notices for failure to comply with any notice);
- Enabling local authorities to restrict the distribution of flyers, hand-outs and pamphlets that can end up as litter;
- Making it an offence to drop litter anywhere in the open air, including private land and rivers, ponds and lakes;
- Confirming that cigarette butts, etc and discarded chewing gum, etc are litter; and
- Making it an offence for a person to fail to give identity details, falsify or give incorrect name and address details when requested to by an authorised officer.

#### **4. The Council's position**

Generally:

- Littering is illegal and the Council has a zero tolerance approach, which means that enforcement action will be pursued where necessary and appropriate.
- The Council recognises that the cost to local residents of clearing up litter is considerable.
- The Council believes that littering is unsightly and makes our towns, villages and other areas less attractive for residents and visitors alike. It can take years to degrade and can be costly to remove. It can be harmful to health and, for example, lead to cuts, puncture wounds and subsequent infections for children and others that come into contact with it. Litter can also cause harm to wildlife and habitats. It can attract pigeons and vermin such as rats. Litter can impact negatively on people's perceptions of an area and make it feel unsafe and uncared for.
- The Council also believes that maintaining clean neighbourhoods benefits the local economy by improving the image of the area and thereby attracting more visitors and customers, encouraging investment in local businesses, increasing house prices and assisting businesses to retain staff members.

## **5 The Council's Approach to Enforcement**

The District Council has adopted a triple-track approach to reducing littering:

- A routine programme of cleaning adopted highways and other public spaces, such as parks and play areas, which is supplemented by extra sweeping when needed, for instance in busy visitor areas or after major events;
- Educating the public about the problem of littering, such as through signage and publicity campaigns; and
- Taking enforcement action where appropriate.

Where an offence of littering has occurred, an FPN will be issued. The Council may also consider recovering the cost of removal of the litter. This reflects the zero tolerance approach being taken to tackle this problem.

The FPN is issued as an alternative to the person being prosecuted through the courts, with a potential maximum fine not exceeding scale 4 (currently £2,500). The Council will normally seek to prosecute if someone fails to pay the fixed penalty notice within the specified timescale.

There are a number of situations when the District Council would consider that the issuing of a fixed penalty notice for littering may not be appropriate and the District Council would seek to prosecute under the Environmental Protection Act, Clean Neighbourhoods and Environment Act or other relevant legislation. This includes:

- Large-scale depositing of waste items, which will normally be dealt with by means of prosecution for littering (Section 87 Environmental Protection Act 1990), fly-tipping (Section 33 Environmental Protection Act) or failure to keep proper control of controlled waste (Section 34);
- Where the defacement of an area by litter or refuse is detrimental to the amenity of the locality, which would normally be dealt with through a Litter Clearing Notice or under Section 215 of the Town and Country Planning Act 1990;

- Where there is recurrent defacement by litter of open land in their vicinity by prescribed commercial and retail premises, which would normally be dealt with through the use of a Street Litter Control Notice.
- When the offence is committed by someone that has previously received a fixed penalty notice for the same offence, which will normally result in a prosecution for littering; and
- Where the offender is aggressive to the Enforcement Officer (or other staff member) and/or refuses to provide their name and address, which will normally result in a prosecution for littering and/or failure to provide requested details.

The District Council recognises that all sections of society can be responsible for littering and that the age of criminal responsibility in England is 10. The Council also recognises that littering can be a particular problem around schools and along routes to school premises.

If the Council intends to carry out targeted enforcement activity close to a school in response to reported problems, then the Council will endeavour to undertake an education initiative at the school prior to enforcement patrols taking place. The Council, however, recognises that there may be occasions where an enforcement officer observes a young person aged 17 or under littering during the course of their normal duties and not as part of targeted action.

The Council thinks that it is important that officers respond to littering by young people and send out the message that littering is unacceptable and will not be tolerated. If the Council does not take action in such circumstances then the District Council believes that it is i) giving out the wrong message and suggesting that the law does not apply to young people, and ii) not adequately responding to public concern about littering. Officers will, therefore, issue fixed penalty fines to anyone aged 11 or over (corresponding to secondary school age) who is found to commit an offence or prosecute as described above.

The District Council will, however, seek to provide an alternative to paying a fixed penalty for those aged 16 or under at the time of the offence. A fixed penalty notice will

be initially issued but will be cancelled, and the Authority would not take any further action in relation to the offence, if the offender attends and completes a one-hour educational session arranged by the District Council. Such sessions will normally be offered once a month on a week-day evening at Moorlands House, Leek. Offenders will not be provided with a choice of sessions but would be expected to attend the next available session. It will be the responsibility of the young person's parent or guardian to ensure that they safely get to and from any such sessions. If the offender does not attend the session then the fixed penalty notice will stand and the individual may face prosecution if the penalty is not paid within the specified timescales.

All enforcement officers will be subject to a Criminal Records Bureau (CRB) check.

## **6 Other SMDC staff members**

The District Council believes that members of the public would normally expect Council staff members to take reasonable action to report and prevent littering when they see it whilst on duty. Those officers that work in the community and who are readily identifiable as Council employees (namely Horticultural Service staff and Street Scene operatives) would generally be expected to try and obtain the details of anyone they see littering during the course of their duties and to report these details to the Council's enforcement service. Officers must consider their own safety before approaching individuals.

## **7 Comments on this Policy**

This policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

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*Reporting Littering*

<http://www.staffsmoorlands.gov.uk/sm/do-it-online/report-it>

Telephone: 0345 605 3014

*Useful web sites*

<http://www.keepbritaintidy.org/>