

# Leeds City Council - Health and Environmental Action Service

Operational Policy Subject: **Litter Offences**

Approved By: Chief Environmental Services Officer

Date: 7<sup>th</sup> April 2009

Version number: 4

Version revised by: G Wilson / S Campbell

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## **1 Scope**

- 1.1 This Policy applies to litter which has been dropped, thrown down or otherwise deposited by an individual. There is a lack of legal definition for litter but would include paper, chewing gum, cans, bottles, food and drink containers, plastic, left over food, cigarette ends, etc, although this list is not exhaustive.

## **2 Objective**

- 2.1 To seek an improvement in the visual street environment by reducing the amount of litter thrown into the street.

## **3 Link to Strategic Outcomes**

- 3.1 The Council has identified 8 strategic outcomes which it has prioritised for action. These are supplemented with key improvement priorities.
- 3.2 Environment – Cleaner, greener and more attractive city through effective environmental management and changed behaviours is relevant. The key improvement indicators which apply are addressing neighbourhood problem sites; improving cleanliness of green spaces; improving the quality of the built environment.

## **4 Application of the enforcement policy**

- 4.1 “Paragraph 5.3 - Prosecution” and “par 5.3.1 - community benefit” apply to the problem of litter. Legal action will therefore be taken on the first occasion an offence is committed due to the extreme improbability that that person will be witnessed committing the offence again.
- 4.2 “Paragraph 5.2 - Fixed Penalty Notices” (FPN`s) allow for the use of fixed penalty notices where the legislation allows. These will be used in respect of litter offences.
- 4.3 Regulatory Enforcement & Sanctions Act 2008  
This policy complies with part 4 of this act as it does not place an unnecessary burden on local businesses. This is because it addresses an activity which is illegal as described by other primary legislation; it meets the needs of the Councils stated objectives. By applying the same policy on all businesses, a level playing field is provided in relation to inter business competition.

## **5 Legislation**

- 5.1 Sec 87 / 88 Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act 2005) - Describes the offence of leaving litter and allows the offender the opportunity of paying a FPN of £75 to avoid prosecution, if they admit to the offence. Leeds City Council also allows a person to pay a lesser amount of £50 if the FPN is paid within 10 days from the date of issue.
- 5.2 Sec 87 (1) – 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.
  - ..(2) This section applies to any place...which is open to the air (open to the air includes covered land if it is open to the air on at least one side)
  - ..(3) ..does not apply to a place that is (covered but still) “open to the air” if the public does not have access to it....
  - ..(4) It is immaterial..... whether the litter is deposited on land or in water.
- 5.3 This legislation also introduces further offences of obstruction if a person refuses to give an authorised officer their details or gives false or inaccurate information.

## **6 Policy**

- 6.1 The two elements of proof required to demonstrate the offence are the act of dropping the material and of leaving it. In every case where these elements have been witnessed the presumption will be to prosecute or issue a FPN. This reflects the zero tolerance approach being taken to tackle this problem.
- 6.2 This policy applies to littering in any place in the City of Leeds. The only land where it does not apply is land that is covered but “open to the air” on at least one side” and where the public do not have access to that place. Areas inside totally enclosed shopping centres are therefore not covered by this policy, although the outside of such places are and will be patrolled with the agreement of the occupiers / owners. If an occupier / owner allows a person to drop litter on their land, litter clearing notices can be used against that person to remove the defacement.
- 6.3 The £75 FPN is issued as an alternative to the person being prosecuted through the courts, with a potential maximum fine not exceeding scale 4 (£2500). Failure to pay within 14 days will result in prosecution. The person has an added opportunity to pay a lesser amount of £50 if paid within 10 days to discharge their full liability for the offence.
- 6.4 The law will be applied to pedestrian offenders and to persons who litter from vehicles when we can identify the offender.
- 6.5 Vehicle offences will initially be pursued through DVLA enquiries, to identify the registered keeper. The keeper or person in control of a motor vehicle will be contacted by the investigating officer via a letter under PACE caution. The information required from this person will assist us in identifying the person who littered. Once the written caution has been returned and the person identified, we will issue an FPN by post to the offender.

If the registered keeper of the vehicle obstructs the authority in their duties by not returning the information required, the Council may have to consider prosecuting that person who is responsible for the vehicle in accordance with section 33(5) of the Environmental Protection Act 1990. This is a more serious offence and in reality, is closer related to fly tipping from a motor vehicle. This is not an action the council wish to pursue but because of the lack of powers to require information from the keeper of the vehicle, it has to be considered.

- 6.6 Offences observed on CCTV will be pursued where identity can be reasonably obtained.
- 6.7 In cases of genuine financial hardship, the Council, at its discretion, may extend the payment deadline of an FPN for up to 10 weeks. Proof of circumstances will be required from the individual. Failure to pay the FPN in full by the deadline will result in prosecution. The early payment discount period will not apply to deferred payments.
- 6.8 All age groups will be approached. Litter offences committed by persons aged 14 and above but less than 18 years old will be issued with a fixed penalty notice. However, the juvenile and their parent/guardian will then be contacted to offer the juvenile the opportunity to discharge the offence by carrying out community reparation. This will be under the guidance of the Youth Offending Service and will typically involve 3 hours work in the community carrying out such tasks as litter picking, area clean ups etc. This must be undertaken with the approval of the parent or guardian and following relevant safety checks. By successfully completing this work, the juvenile will be classed as having discharged their full liability for the offence. Failure to either pay the FPN or undergo the reparation will result in prosecution against the individual through the Youth Courts.
- 6.9 Children younger than 14 years old will be warned if witnessed littering and where offences have been committed around schools, the school will also be informed.