

DARTFORD

BOROUGH COUNCIL

**DARTFORD BOROUGH COUNCIL
ENVIRONMENTAL ENFORCEMENT
POLICY**

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Dartford Borough Council Environmental Enforcement Policy

1. INTRODUCTION

This policy provides a framework for environmental enforcement by Dartford Borough Council (DBC) and to enable and assist Environmental Enforcement Officers in decision-making. It is intended to ensure that enforcement decisions are lawful, consistent, balanced, fair, transparent and proportionate.

The process of regulation involves the ongoing monitoring and enforcing of various aspects of legislation and there is a range of tools available to achieve this. This policy details DBC's approach to regulation and the subsequent, appropriate use of enforcement powers.

DBC is committed to maintaining a clean and safe environment for the benefit of everyone in the Borough of Dartford. The presence of dumped waste, litter, dog fouling, graffiti and other environmental crime detracts from the image of the area and can have an adverse impact on inward investment as well as being a potential health hazard, whilst also contributing to the perception and fear of crime.

This policy highlights DBC's responsibility to maintain a clean environment for all but recognises that this cannot be achieved without the support of the local community and the need for people to take personal responsibility for their actions.

The enforcement function plays a vital role in maintaining a clean and safe environment by providing information and advice to individuals regarding the law, regulations, duties and responsibilities. DBC takes appropriate enforcement action to challenge antisocial behaviour and to ensure that those individuals and/or businesses that spoil the environment for others are accountable for their actions. DBC also takes responsibility for dealing with environmental crime and the effects of this type of antisocial behaviour.

DBC's Environmental Enforcement Officers are responsible for exercising relevant powers under the following legislation:

- Environmental Protection Act 1990 (as amended)
- Litter (Animal Droppings) Order 1991
- Clean Neighbourhoods and Environment Act 2005
- Control of Pollution (Amendment) Act 1989
- Highways Act 1980
- Refuse Disposal (Amenity) Act 1978
- Town and Country Planning Act 1990 (as amended)
- Criminal Justice and Public Order Act 1994
- Anti-social Behaviour Act 2003 (as amended)
- Anti-Social Behaviour Crime and Policing Act 2014
- Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018)

- Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

DBC has had regard to the [Regulators' Code](#) in the preparation of this policy. This provides for an efficient and effective approach to all DBC regulatory inspection and enforcement functions to improve compliance with legislation whilst minimising the burden on businesses, individuals, organisations and on DBC. In certain instances, DBC may conclude that a provision(s) of the Code is either not relevant or is outweighed by another provision. DBC will ensure that any decision to depart from the Code will be properly reasoned, documented and based on material evidence.

To supplement DBC's own enforcement capability, DBC has contracted with a third party to provide environmental and anti-social behaviour patrols across the borough to support its local community (the 'Contracted Patrol Service').

The Contracted Patrol Service's employees (the 'Contracted Patrol Officers') are authorised by DBC, to identify and take action (through the issue of Fixed Penalty Notices (FPNs)), for environment related crimes.

In this policy, 'Authorised Officer' means DBC Enforcement Officers and/or Contracted Patrol Officers, unless the context specifies otherwise.

2. AIM OF POLICY

'The Crime and Disorder Act 1998 defines anti-social behaviour as *'Acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as (the defendant).'*

In order to develop a focus for work aimed at tackling local anti-social behaviour problems in the Borough of Dartford, DBC needs to identify the environmental crime behaviours that are a particular problem within its locality.

To support DBC's strategic objectives to increase public perception of Dartford as a safe place and ensure a high quality street scene, as stated in its Corporate Plan. This policy will help achieve the aim, by providing the framework to:

- Raise awareness of effective waste management, litter control and other local environmental quality issues across the borough.
- Educate residents, businesses and visitors about their duties and responsibilities in terms of effective waste management, litter control, and other local environmental quality issues and what constitutes an offence.
- Undertake any enforcement action as necessary in a reasonable, fair and proportionate manner.

This policy sets out the DBC's enforcement practices, ensuring that it is:

- fair and equitable in the way enforcement is carried out;
- assists businesses and others in meeting their legal obligations;
- provides advice and guidance as an alternative to prosecution when and where appropriate;

- firm in taking action against those that flout the law;
- effective in dealing with complaints about service delivery.

3. SCOPE OF POLICY

The scope of this policy covers waste and local environmental quality issues experienced across the borough on both public and private land. These issues affect the environmental, social and economic well-being of the borough, add to peoples' fear of crime and have a major impact on the quality of life of those who live, work and visit Dartford.

All of the issues highlighted in this policy are important in maintaining a clean and safe environment. Work on certain issues is prioritised in order to approach enforcement in a structured way, targeting the most prevalent issues affecting Dartford's environment.

The current priority areas are:

- Fly-tipping and illegal dumping of waste on public and private land;
- Litter in retail areas, areas with high footfall, other public and private land;
- Graffiti;
- Trade (Commercial) Waste Agreements and collection and disposal of trade waste.

Enforcement action to deal with the offences referred to above is essential in maintaining a clean and safe environment. DBC may seek to prioritise work on certain offences, in order to approach enforcement work in a structured way, targeting the most prevalent problems affecting Dartford's environment. Priority areas may include:

- fly-tipping, including illegal dumping of waste on public and private land;
- litter in high street areas, areas with high footfall, other highways and private land;
- graffiti and fly posting on public or private buildings or structures.

It is the responsibility of every business and individual to comply with the law and it is recognised that most are willing to do so. DBC will provide help and assistance for this purpose and for taking action only against those who do not meet their responsibilities.

Authorised Officers identify and take action (through the issue of Fixed Penalty Notices (FPNs)) for and current as of 1/4/24:

- Litter - £75 with no early payment reduction
- Dog Fouling - £50 - with no early payment reduction
- Littering from Vehicles - £75 - with no early payment reduction
- Commercial Trade Waste Offences -£300 - with no early payment reduction
- Fly-Tipping - £500 payment - with no early payment reduction
- Fly Posting - £100 -with no early payment reduction
- Graffiti - £100 -with no early payment reduction
- Household/Business Waste Duty of Care - £500 - with no early payment reduction

- Household/Business Waste Carrier Licence /Transfer Notice - £300 -with no early payment reduction
- Public Spaces Protection Order breaches (PSPO) - £100 -with no early payment reduction

DBC has regard to the "[Household waste duty of care: fixed penalty notice guidance](#)" to ensure it uses the powers proportionately, which makes clear penalties should not be used as a means of raising money and should not be issued for minor breaches

Where people are seen to break the law or are found to have done so, DBC will take enforcement action against them, by issuing FPNs.

Offences include:

- Dropping litter or allowing litter to accumulate on land;
- Fly-tipping (dumping waste) in public areas;
- Not making proper arrangements for the disposal of commercial waste;
- Failing to comply with notices issued by DBC to rectify environmental infringements.

4. FOCUS AREAS

This policy reflects the Department for Environment Food and Rural Affairs (DEFRA's) [Litter and Refuse: Code of Practice](#) that highlights the need to ensure that if FPNs are issued, they need to be within a framework where offenders will be prosecuted should they choose not to pay a FPN that has been offered to them.

(a) Litter and refuse

The Environmental Protection Act 1990 - Section 87 (as amended) states that an offence is committed if anything is dropped, thrown, left or deposited that causes defacement, in any place open to the air that the public have access to with or without payment.

'Litter' includes cigarette butts, chewing gum, bags of dogs' faeces and waste/litter found to have come from commercial or household premises. As a guideline (see sub-para.(d) 'Fly-tipping' below), a single plastic sack of rubbish should usually be considered fly-tipping rather than litter.

Under section 98(5A) of the 1990 Act, certain discarded smoking-related materials (cigarette ends, etc.) and discarded chewing gum and the remains of other products designed for chewing, are specifically stated to be items of litter, when *dropped*.

'Refuse' should be regarded as having its ordinary meaning of waste or rubbish, including household and commercial waste and can include fly-tipped waste (see sub-para.(d)'Fly-tipping' below). Dog faeces are to be treated as if they were refuse when on certain descriptions of public land (dog fouling is a separate offence from littering. –see sub-para.(i) 'Dog fouling' below)).

DBC provides litterbins in High Street areas and other locations across the borough, including parks and open spaces. Litterbins are also provided by many retail/commercial premises, especially those selling food and drink.

DBC will utilise social media posts to inform and reduce the level of littering by undertaking general litter education, advice and raising awareness to highlight the consequences of littering. Authorised Officers will use FPN powers to highlight that littering is not tolerated in Dartford.

Littering from vehicles: To help combat roadside litter, DBC may issue a civil penalty notice¹ to the registered owner of a vehicle, if it can prove that litter was dumped from their vehicle, even if someone else discarded the litter.

Public service vehicles, taxis and private hire vehicles are exempt from liability for a FPN, if the offence is committed by a passenger.

DBC will have regard to:

- [Part 1A - Effective enforcement Code of practice for litter and refuse September 2019](#), when exercising its enforcement powers
- the [Litter and Refuse Code of Practice](#)²

Individuals who receive a FPN notice have a right to first make representations to DBC under a number of grounds set out in the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 (e.g. that the person was not the keeper of the vehicle at the time of the offence, or that the offence was not committed etc.). If this does not resolve the matter, they will then have a right to appeal the FPN to the [Traffic Penalty Tribunal](#).

DBC may recover any unpaid amount of the FPN and any related costs awarded by the Traffic Penalty Tribunal, as a civil debt, payable under a county court order (registered with the Traffic Enforcement Centre at Northampton Crown Court).

(b) Household Waste receptacles

DBC, as a Waste Collection Authority, has a duty to provide a household waste collection service. DBC requires that non-recyclable household waste is placed in wheeled containers provided and left for collection at the boundary of the householder's property on their days of collection or in communal containers on housing estates.

Section 46 of the Environmental Protection Act 1990 (as amended) allows DBC to specify what waste is placed in receptacles including recycling materials. It also allows

¹ Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

² April 2006

DBC to prescribe the type of containers used, how many there are and when and where they are placed out for collection.

Recyclable materials should be placed in the specific containers provided and in most cases, these are collected on the same day as household waste, albeit fortnightly rather than weekly. Waste will not be collected if deposited outside of the household container (known as 'side waste'), because of the increased pressure on DBC to cut waste sent to landfill and to increase recycling rates.

While householders do not need environmental permits to store and handle their domestic waste, section 33(2) of the Environmental Protection Act 1990 (as amended) prohibits the disposal of waste by private individuals, within their property, in a manner likely to cause pollution of the environment or harm to human health.

In line with good practice, DBC (Waste Services Team and / or DBC employed Environmental Enforcement Officers) will notify households about any issues related to the presentation of their waste, either in the form of a letter or information notice. Where householders persist in failing to comply and their actions cause, or is likely to cause a nuisance or is likely to have a detrimental effect on local amenities, DBC (Waste Services Team and / or DBC employed Environmental Enforcement Officers) will endeavor when appropriate to follow three stages:

- **first stage:** a written warning (detailing how the rules have been broken, the impact of this action, what the householder is required to do and within what timeframe and what will happen if they don't comply);
- **second stage:** the issue of a 'notice of intent' (explaining that the householder may receive a fixed penalty and why, the cost of the fixed penalty, and that they have 28 days from the date of the notice to explain why they shouldn't have to pay a penalty);
- **third stage:** a final notice (issued 28 days after the date on the 'notice of intent', advising why the fixed penalty has been issued; how they can pay, deadline for payment, if there is a discount for early payment, what happens if they do not pay and the representations / appeal process).

DBC will apply the 'harm to the community' test, so that enforcement is targeted on those householders whose behaviour is likely to cause a nuisance or is likely to have a detrimental effect on local amenities. This test encourages consistent and proportionate use by DBC of enforcement powers and sanctions available. FPNs might be appropriate when bin bags are left on the street for days on end, for example, but not when someone simply does not close their bin lid properly, leaves it out for an hour too long, or mistakenly puts something in the wrong bin.

Plastic bags left by a wheeled bin where it cannot reasonably be determined to originate from the same premises however, could be considered a fly-tip, as could repeat offenders leaving side waste by not engaging with DBC's comprehensive recycling services. There may be occasions and circumstances, where a FPN is issued at the time of an alleged offence being identified and committed.

DBC will have regard to the [Household waste bins: when and how councils may issue fixed penalties guidance](#)

Further information on Household Waste & Recycling can be found on the DBC's website at: [Refuse and Recycling Homepage](#).

(c) Business and Bulky Household Waste

Businesses are under a duty to ensure that their waste is stored, presented and disposed of in accordance with the 'waste duty of care' (see section 5 below). This duty states that businesses must take all reasonable steps to keep waste secure prior to disposal. Businesses must be sure that their waste is transferred to a company licensed by the Environment Agency to take it and transport, recycle or dispose of it safely and lawfully.

This transfer of trade waste must be officially recorded on a Waste Transfer Note. Businesses will receive a Waste Transfer Note from their authorised waste company and this record must be kept and stored by the business for two years.

Householders also have a duty of care (see section 5 below) to ensure that only a registered waste carrier removes household, garden or construction waste from their property. They should also be able to provide documentary evidence (waste transfer note/waste carriers licence) upon request by an Authorised Officer.

DBC provides a comprehensive waste collection service for residents including recycling materials, non-recyclable waste and green waste. These services enable residents to dispose of their waste safely and legally.

Any transport of waste as part of a business or otherwise for profit, must be registered with the Environment Agency as a waste carrier, unless the business is carrying its own waste and it is not construction or demolition waste. A charity or voluntary organisation who collects or transports waste on a 'business' basis, must also register with the Environment Agency as a waste transporter. Failure to produce a waste carrier's licence to an Authorised Officer on demand, can result in a FPN or prosecution and seizure of the unregistered waste carrying vehicle by DBC.

(d) Fly-Tipping

There is no precise definition of fly-tipping other than the offences set out in section 33 of the Environmental Protection Act 1990, i.e. the deposit or disposal of controlled waste without a waste management licence, or its disposal in a manner likely to cause pollution of the environment or harm to human health.

Fly-tipping on publicly accessible and private land can be deliberate negative behaviour ranging from those that care little about their local amenities, to those seeking to profit from illegal dumping. Incidences of fly-tipping are unsightly and/or may cause a nuisance (for example a smell). They can also be a public health risk by attracting rats, or even cause further dumping.

The most common fly-tipped waste is household waste. Other wastes include old appliances such as fridges and washing machines, building and demolition waste, animal carcasses, vehicle parts and tyres. Some hazardous wastes are fly-tipped,

such as asbestos sheeting, chemicals and oils (usually because legal disposal is expensive).

The [Litter and Refuse Code of Practice](#)³ notes that a single plastic sack of rubbish should usually be considered fly-tipping, rather than litter. Further:

- sacks placed next to wheeled bins on collection day should not be identified as fly-tipping, whereas sacks left out on non-collection day could be considered to be fly-tipping;
- sacks left by a wheeled bin where it cannot reasonably be determined to originate from the same premises could be considered a fly tip;
- side waste left by repeat offenders as a result of not engaging with the comprehensive recycling services offered by DBC, could be considered a fly tip.

In order to further improve the level of consistency when it comes to the definition of fly-tipping in relation to rubbish sacks, incidents that occur on collection day, i.e. plastic sacks placed next to a bin on collection day will not be considered as fly-tipping. Exceptions to this will include:

- plastic sacks left out on non-collection days;
- plastic sacks left out in numbers that indicate unusual waste behaviour, i.e. the illegal deposit of trade waste as domestic;
- repeat offenders, i.e. those that regularly leave out excess waste for example as a result of refusing to engage with DBC's comprehensive recycling services;
- rubbish left out by commercial enterprises, contrary to their contracted waste arrangements (such incidents may be treated as 'waste duty of care' offences);
- piles of rubbish (dumping of waste) on public or private land.

The mismanagement of waste and illegal dumping of waste (fly-tipping) degrades the amenity of an area and often attracts further environmental crimes. In line with this policy, DBC will provide information and advice to the community on how to properly manage their waste. DBC will use all relevant legislation at its disposal to prosecute those who fail to act on this information and advice.

Waste dumped on **private land** presents particular problems for the local environment. Uncontrolled waste disposal can also present health and safety risks and attract further anti-social behaviour. DBC is not responsible for clearing up waste on private land but may use the relevant legislation to ensure that those dumping waste on private land are prosecuted and responsible for any clear up costs. In some instances, this may also apply to the owner of the land who may be liable for prosecution, if they have allowed their land to be used for dumping.

There are various other powers available to the DBC to deal with fly-tipping. These include powers that prohibit the illegal deposit of waste and powers that enable DBC to get areas of private land cleared, by taking enforcement action. In relation to private land, DBC is required to serve notice on the landowner to tidy up land and, if necessary, make improvements to prevent the activity from re-occurring (target

³ April 2006

hardening). Failure to abide by the notice can lead to prosecution or DBC clearing the waste in default and re-charging the landowner.

(e) Fly-tipping from vehicles: DBC (as a Waste Collection Authority) has powers to seize a vehicle⁴ in the following circumstances:

- if it is used in fly-tipping;
- if it is driven by somebody who is not registered as a waste carrier;
- if it is used to transfer waste to somebody who is not registered as a waste carrier.

Where the waste is fly-tipped from a vehicle, the driver and the registered keeper of the vehicle can be prosecuted.

DBC will deal with the seized vehicles in accordance with the Control of Pollution (Amendment) Act 1989.

(f) Graffiti

Without the permission of the property owner, the term 'graffiti' is used to describe the illegal or unauthorised defacement of property. Typically, this is done by marking with words, pictures or symbols and using marker pens, household/aerosol paint or by etching into the surface. Places where graffiti is done are varied but are typically in public spaces or on private property accessible from them.

To a certain extent, graffiti will appear in places where there are opportunities to do it. Essentially, this means blank walls that are visible to lots of people. Property that borders canals and railways is also seen as attractive to the potential perpetrator. However, it is widely recognised that there is a difference between incoherent markings such as the placing of a nickname on a wall known as a 'tag' to those that require a high degree of skill and technical proficiency in producing a piece of graffiti 'art' or a mural.

There is no official categorisation of types of graffiti. However, the following terms are used by DBC to categorise graffiti that is reported to it, which have some general characteristics:

- **Juvenile:** Generally taking the form of 'X loves Y', usually written in marker / felt-tip pen;
- **Tags:** Stylised personal graphic identifiers of street/nicknames. These range from marker pen designs to pictorial tags or stencils done with spray paint;
- **Scratches:** Also called 'etching' or 'Dutch Graffiti', involving deliberate marking of surfaces with a sharp instrument, including painted surfaces, wood and glass;
- **Contentious:** This includes any graffiti that could be offensive to people, including racist or religious graffiti, but also political statements;
- **Stencil:** Graffiti sprayed through a stencil that is not considered to be a tag;
- **Ghost:** graffiti that has been partially removed or which has faded.

⁴ means any motor vehicle or trailer within the meaning of the [Road Traffic Regulation Act 1984](#)

The presence of graffiti affects the appearance of the local environment, can lead to further degradation of the area and an increase in the fear of crime. The detracting aspects of graffiti can be extremely frustrating for neighbourhoods and property owners, through acts of criminal damage⁵ to their properties.

DBC's approach to the management of graffiti in the Borough of Dartford is through education, advice, enforcement and prevention. The overall aim is to ensure that graffiti is removed as quickly as possible and appropriate enforcement action is taken against offenders.

Who removes graffiti? – DBC is responsible for removing graffiti from its public buildings or monuments. If graffiti appears on privately owned property or business premises, it is the property/business owner's/occupier's responsibility. DBC will offer advice on its graffiti removal services.

DBC has powers to require statutory undertakers and bodies responsible for street furniture, such as telephone boxes, bus shelters and electricity boxes, to remove graffiti.

Graffiti classified as **offensive** may contain some or all of the following elements:

- language of a political nature;
- language of a racist, religiously motivated, homophobic, biphobic, transphobic, and disability hate nature (referred to as 'hate crime');
- an image which is graphically explicit;
- an image that is visually offensive or textually offensive by the message that it contains.

Kent Police deals with **hate crime** related prosecutions. It is important that relevant incidents are identified by DBC, as hate crimes, as early as possible and for DBC to record and report such incidences to Kent Police, including providing Kent Police with the best available evidence, in order to support the aggravating factor at court and at sentence.

Hate crime may be reported to Kent Police, through normal channels, or through the True Vision website (www.report-it.org.uk). Once the relevant evidence has been gathered to the satisfaction of Kent Police, DBC will aim to prioritise the removal of hate crime graffiti, within 24 hours.

FPNs: excepting:

- hate crime graffiti incidences;
- offences involving the destruction of or damage to property under section 1 of the Criminal Damage Act 1971, which is racially or religiously aggravated⁶,

⁵ Criminal Damage Act 1971 - A person guilty of an offence under section 1(1) of the Criminal Damage Act 1971 is liable to an unlimited fine or imprisonment in either the magistrates' court or the crown court

⁶ Section 30 Crime and Disorder Act 1998

a FPN may be issued by an Authorised Officer to any person who is guilty of defacement of land and property by graffiti.

The **sale of aerosol spray paint** to under sixteen's is an offence⁷. Trading Standards is the enforcement authority.

Kent County Council, as the 'highway authority' is the enforcing authority for graffiti on the surface of the highway⁸.

DBC will have regard to Part 2 of the [Litter and Refuse Code of Practice](#)'s⁹ advisory standards in managing graffiti problems in the course of discharging its Environmental Protection Act 1990 (section 89) duties etc.

Local planning authority powers: Powers are available to DBC as local planning authority to take action against signs (includes any writing, letter, picture, device or representation, but not an advertisement) on surfaces, which are readily accessible to the public (excluding statutory undertaker land), which it considers detrimental to the amenity of the area or offensive¹⁰.

Excluding 'hate crime' graffiti that is dealt with as above, DBC as local planning authority, may serve a notice¹¹ on the owner/occupier of the premises requiring them to remove or obliterate the graffiti (the ROG), allowing at least 15 days¹² to comply. If there appears to be no owner/occupier, DBC may affix the ROG to the surface. If the owner/occupier does not take action within the time specified, DBC may take the action itself and recover its expenses from the owner/occupier. Expenses may be recoverable¹³ from the owner's/occupier's successor and a charge placed on the property. Expenses cannot be recovered if the surface is on, within the curtilage of, or forms part of the curtilage boundary of, a dwelling house.

Local authority planning powers will be exercised by Planning Enforcement.

(g) Fly-posting

DBC aims to have safe, attractive and sustainable neighbourhoods. Maintaining and improving the physical appearance and condition of the local environment enhances the quality of life of its residents and helps to support this aim. Fly-posting undermines this objective, and can be a blight on an area. The presence of fly-posting encourages a spiral of decline, which can undermine community cohesion, the related efforts of public agencies, and DBC's reputation. Furthermore, it is an illegal activity. DBC

⁷ Anti-Social Behaviour 2003 (section 54)

⁸ Highways Act 1980 (section 132)

⁹ April 2006

¹⁰ Section 225F Town and Country Planning Act 1990

¹¹ Section 225F Town and Country Planning Act 1990

¹² 15 days beginning the date of service or fixing of the notice

¹³ Section 291 Public Health Act 1936

therefore aims to control fly-posting throughout the Borough, through education and when necessary, enforcement.

'Fly-posting' (mainly by businesses and community groups), is displaying any sized printed material from small stickers to large posters such as adverts and other promotional materials without permission, on buildings, posts, poles, litter bins and elsewhere in public. This excludes business cards and handbills placed under vehicle windscreen wipers and door handles¹⁴, illegal displays on movable objects such as advertising 'A boards' and billboards on movable bases on farmland, 'barrage balloons' etc.

It is an offence¹⁵, for any person to display an advertisement in contravention of the Town and Country Planning (Control of Advertisements) Regulations 2007.

Fly-posting classified as a 'hate crime' will be dealt with in accordance with the provisions applying to hate crime graffiti as referred to in section 4(f) 'Graffiti' above.

FPNs: excepting:

- hate crime fly-posting incidences¹⁶;
- an offence under section 224(3) of the Town and Country Planning Act 1990 (displaying an advertisement in contravention of the 2007 Regulations), unless the Authorising Officer has reason to believe that the individual has personally affixed or placed the advertisement in contravention of the 2007 Regulations,

a FPN may be issued to any person who is guilty of defacement of land and property by fly-posting¹⁷.

DBC will have regard to Part 2 of the [Litter and Refuse Code of Practice](#)'s¹⁸ advisory standards in managing fly-posting problems in the course of discharging its Environmental Protection Act 1990 (section 89) duties etc.

Local planning authority powers: DBC as local planning authority can take action¹⁹ against fly-postings that are readily accessible to the public, which it considers detrimental to the amenity of the area or offensive.

Excepting fly-posting classified as 'hate crime' (see above), DBC may remove or obliterate any placard or poster²⁰ which is displayed in its area and which in its opinion is so displayed in contravention of the 2007 Regulations. However, if the placard or poster identifies 'the person who displayed it or caused it to be displayed', DBC has to

¹⁴ These items do not fall under the Town and Country Planning Act 1990 restrictions, but where they have been discarded, will form a component of litter.

¹⁵ Under section 224 of the Town and Country Planning Act 1990

¹⁶ Language of a racist, religiously motivated, homophobic, biphobic, transphobic, and disability hate nature

¹⁷ Section 43 of the Anti-Social Behaviour Act 2003

¹⁸ April 2006

¹⁹ Section 225F Town and Country Planning Act 1990

²⁰ Section 225 Town and Country Planning Act 1990

give at least two days' notice that it plans to remove or obliterate the poster or placard. In the first instance, the costs of removal are recoverable from the person identified in the poster or placard as having displayed it, or having caused it to be displayed. In the event that this person cannot be identified, DBC will seek to recover the costs of removal from the beneficiaries (including company directors) and the owners of surfaces that are the subject of the fly-posting.

DBC need not give notice where the placard or poster does not give the address of the person displaying it and it does not know that address and is unable to ascertain the relevant address after making reasonable inquiry.

In relation to persistent problems with unauthorised fly-posting, DBC may serve an 'action notice'²¹ on the owner or occupier of the land where the surface is situated if they are known or can be discovered. If this is not possible after reasonable enquiry, DBC may fix the notice to the surface. The 'action notice' will require the owner or occupier to take specified measures (provided these are reasonable) to prevent or reduce the frequency of the unauthorised fly-posting on the surface concerned. In the event that remedial action is not taken, DBC may take the specified action itself and recover expenses reasonably incurred from the owner or occupier. Expenditure cannot be recovered if the surface is on, within the curtilage of, or forms part of the curtilage boundary of, a dwelling house or forms part of a flat.

No compensation may be recovered from an owner or occupier where damage to chattels and land was reasonably caused by DBC in carrying out the remedial action.

A Community Protection Notice (CPN) under Section 43 of the Anti-social Behaviour, Crime and Policing Act 2014, may be served on statutory undertakers and others responsible for street furniture and 'relevant surfaces', requiring the removal of fly-posters, and where street furniture and relevant surfaces are defaced by fly-posters in a manner that is detrimental to the amenity of the area or is offensive. If a CPN is not complied with, DBC can remove fly-posters and reclaim the costs of doing so.

It should not be presumed that DBC will automatically permit or disregard the illegal advertising of community events, charity events, travelling fairs or travelling circuses and reserves the right at all times to exercise its powers to prevent fly-posting where it deems it appropriate to do so. In all cases, advertisements should not be displayed without the permission of the landowner²² and, where relevant, advertisement consent or deemed consent under the relevant 2007 Regulations has been obtained.

There are rights of appeal to the Magistrates' Court, against the notices served by DBC.

Local authority planning powers will be exercised by Planning Enforcement.

²¹ Section 225 Town and Country Planning Act 1990

²² The Town and Country Planning (Control of Advertisements)(England) Regulations 2007

Highways: Under Section 132 of the Highways Act 1980, it is an offence for any person to paint, or in any way inscribe or affix any picture, letter, or sign on the surface of a highway, any tree, or structure without the consent of Kent County Council, as the highway authority. Kent County Council is the enforcing authority.

(h) Public Spaces Protection Orders

Public Spaces Protection Orders (PSPOs) are intended to deal with nuisance or anti-social behaviour in a particular area that is having a detrimental effect on the quality of life for those in the local community.

PSPOs impose conditions on the use of the area for example, banning congregating and loitering in groups and engaging in behaviour that is likely to cause harassment, alarm or distress between the hours of 8p.m and 6a.m. Monday to Sunday.

A breach of the PSPO is a criminal offence, which can be dealt with, by way of a FPN issued by an Authorised Officer, or prosecution by DBC, in the Magistrates' Court.

(i) Dog fouling

Dog fouling is unpleasant and whilst rare, contact with dog excrement can cause toxocarasis – an infection that can lead to dizziness, nausea, asthma and even blindness or seizures.

Subject to the 'exception(s) to the offence' referred to below, persons in charge (which includes owners) of dogs, have a legal duty to clean up every time their dog messes in a public place.

The duty to clean up does not apply to:

- land used for agriculture or woodlands;
- rural common land;
- land that is predominantly marshland, moor or heath;
- highways with a speed limit of 50mph or more.

DBC offers free scoops and provides bins in public places, to dispose of dog bags.

Under the Litter (Animal Droppings) Order 1991 and Part IV of the Environmental Protection Act 1990, DBC is under a duty to keep the following areas clear of dog faeces:

- any public walk or pleasure ground;
- any land.....laid out as a garden or is used for the purposes of recreation;
- any land not forming part of the highway, which is open to the air, which the public are permitted to use on foot only, and which provides access to retail premises;

- off-street parking places²³.

Under the Anti-social Behaviour, Crime and Policing Act 2014, persons in charge of a dog who regularly allow their dogs to foul in public places, will be committing anti-social behaviour.

DBC's '[Dog Fouling footways and grass verges ' Byelaws](#) makes it an offence for a person in charge of a dog to permit the dog to foul footways and grass verges maintained by DBC, unless they have a reasonable excuse.

Exception(s) to the offence are:

- the person in charge of the dog has a reasonable excuse for not clearing up (being unaware of the fouling or not having the means to clean up is not an excuse);
- the owner or occupier of the land has consented to the faeces being left;
- the person puts the faeces in a bin;
- the person in charge of the dog has a registered visual impairment.

Unless an 'exception(s) to the offence' applies, anyone who fails to clear up after their dog, can be issued with a FPN by an Authorised Officer.

5. DUTY OF CARE

DBC provides a comprehensive waste collection service including recycling materials from residents, non-recyclable waste, commercial waste, bulky goods, green waste and white goods. These services enable residents and businesses to dispose of their waste safely and legally.

The duty of care applies to all controlled waste, as follows.

- household waste;
- industrial waste, including some waste from agricultural premises, mines and quarries;
- commercial waste, including any commercial activity run from a household.

Some wastes are not subject to waste regulation, such as manure and other natural materials produced in agriculture.

Waste is any substance or object that the holder discards, intends to discard or is required to discard. The meaning of "discard" applies to "disposal" and "recovery" operations and processes and can be intentional or unintentional on the part of the holder. Whether a substance or object is waste is determined on a case-by-case basis - see the '[legal definition of waste guidance](#)'

²³ Provided under section 32 Road Traffic Regulation Act 1984

(a) Households (occupiers of domestic property) - Section 34(2A) of the Environmental Protection Act 1990 makes it a legal obligation (known as a 'duty of care'), for the occupiers of domestic property to take all reasonable measures available to them in the circumstances to ensure that they only transfer household waste produced on that property to an authorised person. This reduces the chance of waste ending up in the hands of those who would fly-tip the waste. More detail on this duty of care is set out in [section 5 of the Waste Duty of Care Code of Practice](#).

This 'duty of care' provides for the safe management of waste to protect human health and the environment.

The 'duty of care' applies to anyone who imports, produces, carries, keeps, treats, disposes of, or are a dealer or broker that has control of controlled waste and extends to householders (occupiers of a domestic property), taking all reasonable measures available to them to ensure their waste is only transferred to an authorised person.

For the purpose of applying the 'duty of care', **household waste** is generally considered to be any waste produced within a domestic property. This is not just regular black bin waste, but other material to be disposed of from a property such as old mattresses, furniture and household appliances.

Where waste comes from multiple individuals in the household, the 'duty of care' applies to the individual occupier of the property, who is arranging the transfer of household waste produced in/from that property.

(b) Bulky waste - Householders have a duty to ensure that only a registered waste carrier removes household, garden or construction waste from their property. They should also be able to provide documentary evidence (waste transfer note) upon request by an Authorised Officer.

(c) Waste producers (businesses) -The duty of care applies to all businesses whose activities produce waste. This includes private sector businesses such as shops, offices, factories and tradespersons (e.g. electricians, builders, glaziers and plumbers) and public sector services such as schools, hospitals and prisons, as well as charities and voluntary and community groups. It also includes permitted operations or exempt facilities that produce waste as part of their activities. If, in carrying out a waste operation, the nature or composition of the waste changes, the business will be regarded as a producer of the waste.

Waste producers play a key role under the 'duty of care' requirements as they are in the best position to identify the nature and characteristics of the waste.

Under s.34 of the Environmental Protection Act 1990, businesses have a duty to take all reasonable and applicable measures to ensure that:

- waste is not stored, transported, treated, or disposed of illegally or in a way that causes pollution or harm;
- waste is safely and securely stored so that it cannot escape;
- waste is transferred to an authorised person or for authorised transport;

- when waste is transferred, it is accompanied by a full written description of the waste and a completed Waste Transfer Note enabling others to avoid contravention of the duty of care.

In order to comply with the 'duty of care', instructions should be given by businesses to their employees and contractors on the handling and disposal of all waste produced.

On a construction site, the waste producer is the person actually doing the work that gives rise to the waste, not the person who issues instructions or establishes contracts that give rise to waste. If a main contractor arranges for a carrier to remove a subcontractor's waste, the main contractor is acting as a broker and all three parties are therefore subject to the duty.

Businesses must be sure that their waste is transferred to a company licensed by the Environment Agency to take it and transport, recycle or dispose of it safely.

Businesses that produce or handle waste also have a duty to take reasonable measures to consider the waste hierarchy and, where possible:

- prevent waste;
- consider alternatives to disposal, e.g. reuse or recycling.

More detail on the 'duty of care' is set out in [the Waste Duty of Care Code of Practice](#)

6. SURVEILLANCE – CCTV, PHOTOGRAPHIC OR VIDEO

DBC utilises and employs both overt and covert CCTV in its effort to maintain enforcement activity and improve the feelings of safety of those living, working and visiting the Borough. These aims are supported by the '[Dartford CCTV Code of Practice](#).'

The key aims and objectives are to:

- reassure the public;
- encourage responsible use of the environment; and
- to deter and detect crime.

All surveillance equipment is supported by clear 'surveillance in operation' signage and with specific regard to compliance with the Regulation of Investigatory Powers Act 2000 and the [Surveillance Camera Code of Practice](#) and the [Information Commissioner's CCTV guidance](#).

7. BODY WORN CAMERAS

DBC uses body worn cameras for its enforcement activities and for its Authorised Officers' personal safety and welfare, in accordance with its [Body Worn Video Policy](#). The recordings provide video and audio evidence of interactions between Authorised Officers and members of the public. All recordings are incident specific. Clear signage is displayed, for example on an individual's uniform, to show that recording is taking place and whether the recording includes audio.

8. THE APPROACH TO DEALING WITH NON-COMPLIANCE

DBC will take a firm and fair approach in the implementation of its enforcement procedures and will take a robust stance towards offences relating to identified local problems. Negotiation, education, advice and support will also be used where appropriate and DBC will aim to avoid imposing unnecessary regulatory burdens.

DBC reserves the right to resort to enforcement action in the first instance, if the circumstances warrant this, rather than following a policy of education, advice and support.

Enforcement procedures will always follow statutory requirements. DBC will seek to deal with offences expeditiously by the use of FPNs, using prosecution only when these options are not available or in the case of persistent offenders and serious environmental crime offences.

9. LEVELS OF ENFORCEMENT ACTION

DBC has a range of enforcement powers. Enforcement is any formal or informal enforcement action to prevent or rectify infringements of legislation. Whilst the enforcement options may differ depending on the legislation applied, the principles of application remain consistent. DBC will engage with individuals, business or the community to educate and enable compliance when and where it is appropriate.

The environmental enforcement tools include:

- visits,
- inspections for the purpose of checking compliance with the law,
- verbal and written advice on legal requirements and good practice,
- assistance with compliance,
- written warnings,
- servicing of statutory notices such as Community Protection Warnings and Notices,
- issuing FPNs,
- formal cautions,
- imposition of conditions on any licence,
- prosecution,
- seizure and detention of vehicles and equipment,
- works in default,

- injunctions,
- applying to the court for orders to control the conduct of individuals and businesses etc.,
- liaison and co-operation with other enforcement authorities and organisations where appropriate, such as the Police, Environment Agency and/ or the Health & Safety Executive.

All enforcement decisions and actions will be made with due regard to the provisions of:

- The Human Rights Act 1998
- The Crime and Disorder Act 1998
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 2018 & UK GDPR²⁴
- Freedom of Information Act 2000
- Equalities Act 2010

An outline of enforcement action options are listed below:

i. Informal Action:

- No action

There will be circumstances where a contravention may not warrant action, or it may be inappropriate due to insufficient evidence. Many minor contraventions can be dealt with via advice and/or assistance.

- Verbal advice (issued by Authorised Officers)

To be considered where the offender shows an understanding and willingness to remedy contraventions of a minor nature. For minor breaches of the law, Authorised Officers can give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable and will take into account the seriousness of the contravention and the implications of the non-compliance. Where the advice required is detailed, or there are potentially serious implications from the failure, the advice will be provided in writing (see below). Failure to comply could result in an escalation of enforcement action by DBC.

- Written advice (issued by DBC Enforcement Officers)

May be considered where there is no imminent risk to health and the DBC Enforcement Officer believes the offender will co-operate in remedying the offence. Written advice may also be given where it is felt necessary for the offender to consider their liabilities under law. This level of action could be appropriate where the degree

²⁴ Derived from the General Data Protection Regulation (EU) 2016/679

of risk (or in some cases, environmental impact) from any given situation is minor, but cannot be rectified immediately, the offender has no recent history of non-compliance and the DBC Enforcement Officer has good reason to expect them to put right the matters in question without the need for further intervention.

Informal action will be recorded by the DBC Enforcement Officer and will be used as a basis for judgements on future enforcement action if there are recurrent problems with an offender or premises. Formal action may be taken by DBC, if similar infringements are found in the future.

ii. Formal Action:

- Fixed Penalty Notices (FPNs) for:
 - Litter - £75 with no early payment reduction
 - Dog Fouling - £50 - with no early payment reduction
 - Littering from Vehicles £75 Litter - £75 with no early payment reduction
 - Commercial Trade Waste Offences £300 - with no early payment reduction
 - Fly-Tipping - £500 payment with no early payment reduction
 - Fly Posting £100 with no early payment reduction
 - Graffiti £100 with no early payment reduction
 - Household/Business Waste Duty of Care - £500 with no early payment reduction
 - Household/Business Waste Carrier Licence /Transfer Notice - £300 with no early payment reduction
 - Public Spaces Protection Order breaches (PSPO) £100 with no early payment reduction

FPNs will be issued when an Authorised Officer observes or has evidence that an offence has been committed. The FPN gives the alleged offender an opportunity to avoid prosecution by payment of the penalty. A FPN is therefore only issued where there is adequate evidence to support a prosecution, if a FPN is not paid.

The efficient use of FPNs will improve the effectiveness of the enforcement process, resulting in Authorised Officers being able to focus on more complex and serious cases.

Payment of FPN: The FPN must be paid within 14 working days of it being served with a reduction of the fine, if it is paid within 10 working days. If the FPN is not paid, a reminder letter will be issued, requesting payment and setting out what action DBC will take to recover the outstanding payment in the Magistrates' Court.

Disputing the FPN: If the FPN is disputed, the matter will be dealt with through the Magistrates' Court. It will be for the Court, on receiving the evidence, to determine whether an offence was committed and therefore whether the FPN should be paid.

Complaints about behaviour of Authorised Officers: Complaints about Authorised Officer behaviour will be dealt with under DBC's Corporate Complaints Procedure and separately from any Magistrates' Court proceedings.

Delegations and authorisations: DBC Enforcement Officers have delegated authority (under DBC's Scheme of Delegations to Officers) to issue FPNs and take other enforcement action. Contracted Patrol Officers are authorised by DBC, to issue FPNs. The extent of the delegation and authorisation is reviewed annually, in light of legislative changes, qualifications, and experience. Contracted Patrol Officers working on behalf of DBC, also have their own Policy in place around their enforcement practices, processes and procedures.

DBC will have regard to [DEFRA's guidance](#)²⁵ on 'when not to issue a fixed penalty notice in lieu of prosecution'. In some circumstances, in particular, where breaches are serious or recurrent, prosecution may be more appropriate than the issue of a FPN (e.g. a known recidivist offender²⁶). When deciding on the seriousness of offences, DBC will take into consideration factors such as the impact on the environment, the victim, the wider community and clear up costs.

- Community Protection Warning (CPW)/Community Protection Notice (CPN)

The CPN is intended to deal with particular, on-going problems, or nuisances that negatively affect the community's quality of life by targeting those responsible. CPNs can be used to tackle a wide range of problem behaviours. They can be issued against any person over the age of 16, or a group or organisation including a business.

There is a three-step process in issuing a CPN:

- firstly, a warning letter (CPW) must be issued directing a person to stop whatever they may be doing that is considered as 'detrimental behaviour' and/or require them to carry out a certain action within a given time limit. For example, it may require a person to clear up an untidy garden or clear waste from land within a given period;
- secondly, if the CPW is not complied with, then a CPN can be issued. The CPN will contain similar conditions to the CPW, but may include amendments to the wording and will be worded formally and unambiguously to ensure there are no difficulties in the event that the matter progresses to prosecution. If the problem persists, then:
- thirdly, the following punitive measures may be applied:
 - service of a FPN; or
 - prosecution in the Magistrates' Court.

Appeal a CPN: A person issued with a CPN may appeal within 21 days to the Magistrates' Court. Grounds for appeal²⁷ include that the conduct specified in CPN did not meet one of the limbs of the test for issuing a CPN or that the person could not reasonably be expected to control the behaviour.

²⁵ September 2019

²⁶ An individual who reoffends repeatedly

²⁷ Anti-Social Behaviour, Crime and Policing Act 2014

- Cautions

These can be issued by an Authorised Officer where there is clear evidence and acceptance of an offence by the offender. A caution is an admission of guilt, but is not a form of sentence nor is it a criminal conviction. A caution will be considered for:

- less serious offences;
- to reduce chances of re-offending; and
- to avoid unnecessary appearance in the Magistrates' Court.

A record of the caution will be kept on file and may be cited in Court if further offending occurs.

- Prosecution

DBC Enforcement Officers will have regard to all relevant circumstances in assessing whether prosecution is appropriate and in the public interest. A decision to prosecute will be made in accordance with the [Code for Crown Prosecutors](#). The Code details the public interest and evidential considerations when bringing proceedings. Legal advice will be sought where necessary.

DBC may prosecute in respect of offences deemed more serious or recurrent breaches, a known recidivist offender, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance.

Prosecution will only be considered where DBC Enforcement Officers are satisfied that they have sufficient evidence to provide a realistic prospect of conviction against the defendant(s), and it is in the public interest to do so.

The public interest test must be considered in each case where sufficient evidence is present. DBC Enforcement Officers will balance factors for and against prosecution carefully and fairly.

Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the defendant. Some factors may increase the need to prosecute but others may suggest that another course of action would be more suitable.

Before deciding that prosecution is appropriate, DBC Enforcement Officers will consider all relevant circumstances carefully and will have regard to the following public interest criteria:

- The prevalence of the type of offence
- The need for a suitable deterrent
- The risk of danger or injury to the public
- The failure to comply with advice about legal requirements
- The disregard of legal requirements for financial reward
- Significant financial loss, potential or actually, to a third party
- A history of similar offences
- Persistent breaches of legislation

- Where fraud, guilty knowledge or negligence is a factor

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious offences, a prison sentence. The court may order the forfeiture and disposal of for example vehicles used in the commission of an environmental crime and/or the confiscation of any profits that have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

If it is in the public interest and appropriate to do so, information concerning non-compliance will be shared with other enforcement agencies, in accordance with the Data Protection Act 2018, UK GDPR and Human Rights Act 1998.

10. DECIDING WHAT ENFORCEMENT ACTION TO TAKE

Decisions about the most appropriate enforcement action to take are based on professional judgment, legal guidelines, statutory codes of practice, priorities set by DBC and/or Government and this policy.

DBC Enforcement Officers will make fair, transparent, timely, and efficient enforcement decisions. If deemed necessary, decisions about enforcement may involve consultation between or approval from:

- DBC Investigating Officer(s) and/or other agencies
- Senior managers
- DBC legal services

11. INJUNCTIVE ACTIONS & ENFORCEMENT ORDERS

In some circumstances, DBC may seek a direction from the court (in the form of an order or an injunction) that a breach be rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with an injunction constitutes contempt of court, a serious offence that may lead to imprisonment.

DBC is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, DBC will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

DBC may use civil procedures in order to encourage persons, whose activities frequently appear to breach legal requirements, to improve their conduct. DBC Enforcement Officers will initially contact the person concerned in order to seek to bring about compliance quickly. If the non-compliance continues, DBC Enforcement Officers may then consider the commencement of injunctive proceedings without further delay.

12. LIAISON WITH OTHER REGULATORY BODIES AND ENFORCEMENT AGENCIES

Enforcement activities may be coordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any environmental crime enforcement.

Where an enforcement matter affects a wider geographical area beyond the Dartford Borough boundaries, or involves enforcement by one or more local authorities or organisations, all relevant authorities and organisations will be informed of the matter as soon as possible and if necessary, enforcement activity will involve a coordinated approach.

Where appropriate, and in accordance with the law, DBC may share environmental crime information (including personal information) with other regulatory bodies and agencies such as:

- Government Agencies
- Police Forces
- Fire & Rescue Authority
- Other Local Authorities
- Other prosecuting agencies such as the Environment Agency

13. COMPLAINTS

DBC is accountable to the public for its actions. This means that it must have policies and standards against which it can be judged, and an effective and easily accessible mechanism for dealing with complaints. Anyone who is dissatisfied with DBC's actions under this policy, should be advised to instigate DBC's [Corporate Complaints Procedure](#). This specifies that 'a customer may make a complaint if they are dissatisfied with the Council's action, or lack of action, or about the standard of service

- whether the action was taken by the Council itself, or by a person acting on behalf of the Council'.

DBC Enforcement Officers will consider what support should be made available to a complainant, where English is not their first language, for example, offering translation and interpretation services, or where a complainant has a disability that prevents them from making their complaint in writing, DBC Enforcement Officers may provide assistance in transcribing a verbal complaint and then producing a written copy for approval by the complainant or their representative.

[Relay UK](#) can assist individuals with hearing and speech difficulties to communicate over the phone with DBC Enforcement Officers.

If complainants remain dissatisfied with DBC's response to their complaint, they may complain to the [Local Government and Social Care Ombudsman](#).

14. EQUALITIES AND DIVERSITY - EQUALITY ACT 2010

DBC's [Equality and Diversity Framework \(2018-2022\)](#) (the EDF) identifies its aims to achieve equality of opportunity in all its activities, including the delivery of services to the community.

The EDF is underpinned by a set of high-level strategic objectives that incorporate the requirements of the Equality Act 2010 and the Public Sector Equality Duty. These objectives include:

- services which are accessible to everyone and do not discriminate on any unjustifiable ground;
- services seek to meet the needs of DBC's customers and local communities;
- equality and diversity is championed within DBC and its contractors/service providers, representative of the local community.

The Public Sector Equality Duty is a duty on DBC and that responsibility cannot be delegated to its Contracted Patrol Service and is a continuing duty.

15. DATA PROTECTION & CONFIDENTIALITY

As a data controller, DBC must ensure the highest level of compliance responsibility, and demonstrate compliance with, all the Data Protection Act 2018 principles and UK GDPR requirements. DBC is also responsible for the compliance of its Contracted Patrol Service (who act as DBC's data processor), with the 2018 Act and the UK GDPR.

The [Privacy Notice for Community Safety including CCTV, Body Worn Cameras, Dash Cams and environmental crime](#) describes what data will be collected, how it is used, retained and disclosed and data subject rights.

Data subject access requests and the exercise by a data subject of other rights under the 2018 Act will be responded to by DBC, with the assistance of its Contracted Patrol Service.

The [Data Retention & Disposal Policy & Schedule](#) explains that personal data will not be retained for longer than necessary.

The [Data Protection Policy](#) explains how special category and criminal convictions personal data will be processed.

DBC will use its best endeavors to treat in **confidence**, the identity of individuals who report environmental crime incidences to it. However, DBC cannot guarantee that any investigation process will not reveal the source of the information, particularly in matters of criminal or civil law.

DBC, the Police and other local authorities and public bodies are signatories to the [Kent and Medway Information Sharing Agreement](#). Sharing personal information is

crucial to the successful delivery of this policy. The Agreement provides for openness and transparency in information sharing, as well as appropriate governance and support, which assists DBC to share personal information lawfully, safely and securely.

16. FREEDOM OF INFORMATION & ENVIRONMENTAL PROTECTION REGULATIONS

The Freedom of Information Act 2000 gives individuals the right to ask DBC for recorded information it has on any subject. However, through the application of relevant exemptions, DBC may refuse to provide requested information e.g. protecting information that should not be disclosed, which if disclosed, would be harmful to another person or it would be against the public interest.

The Environmental Information Regulations 2014 applies to information concerning elements affecting the environment, for example, noise, waste, emissions, discharges etc. However, through the application of relevant exceptions, DBC may refuse to provide requested information. Some of the exceptions relate to categories of information, for example, unfinished documents and internal communications.

17. REGULATION OF INVESTIGATORY POWERS ACT 2000

The Regulation of Investigatory Powers Act 2000 (as amended) (RIPA) and the regulations and orders made thereunder provide the legislative framework within which covert surveillance operations (directed surveillance, deployment of a covert human intelligence source and access to communications data) must be conducted in order to ensure that investigatory powers are used in accordance with human rights.

Where covert operations are intended, due regard must be had by DBC Enforcement Officers to [DBC's 'Policy Statement Regulation of Investigatory Powers Act 2000 \(RIPA\) \(as amended\)'](#), to ensure compliance with surveillance authorisation rules.

18. EVALUATION AND REVIEW

DBC will regularly review progress and evaluate enforcement action against its priority areas and their effectiveness in reducing the impact on local environmental quality and the success of any contractual arrangements with a third party, for the issue of FPNs.

Reviews will also seek to introduce any new powers granted to local authorities in managing local environmental quality or changes in legislation.