

Environmental Enforcement Strategy

Foreword

Gravesham Borough Council is a listening Council and one of the strongest messages that residents have consistently given to us be it through the Corporate Plan 2019-2023 consultation, through our Administration's manifesto engagement and our ongoing Community Engagement events is the need to tackle litter, fly tipping and the associated anti-social behaviour that such criminal behaviour creates.

We have listened and made changes such creating a brand new dedicated Environmental Enforcement Team in 2020. Since their creation by this Administration the team of Officers have been relentless in investigating and using all available powers to enforce and prosecute against those that fly-tip, litter, cause dog fouling or otherwise. We have made it easier to report environmental offences and created a feedback mechanism so that residents, businesses and communities are aware of all stages of investigation and clear up.

However, despite this we do not have all the powers or resources we need to ensure that this issue is tackled on a level that meets everyone's needs such as the level of fixed penalty notices and fines are fixed in a law set many years ago or the fact that we cannot clear fly tipping or litter on private land.

So, this new strategy represents not just an outline of the next steps, to lobby for more powers and resources from central Government to help local authorities tackle this issue, but helps educate and ensure that residents, businesses and communities are clear about what we currently can do and we cannot do yet and how we shall do enforcement when we can, to highlight our strategic aims and objectives in reducing littering and fly tipping and also gives our Officers clear direction and backup from the political leadership to carry out this important role.

Such is the focus that Gravesham Borough Council has on tackling fly tipping that this strategy was agreed unanimously on a cross party basis showcasing our united commitment to ensure that the message is heard loud and clear in this Borough and beyond that Gravesham Borough Council will not stand by and together is on the side of our residents, our businesses and our visitors who all wish to have a Borough to be proud of.

Cllr Shane Mochrie-Cox

Cabinet Member for Community and Leisure

Introduction

Gravesham Borough Council is committed to maintaining a safe and healthy environment for its residents. The commitment recognises our responsibility to keep our streets and open spaces clear of litter and illegally deposited waste. Our communities raised the issue of fly tipping and environmental crime across the borough. As a result, the current administration committed to tackling the issue. Enforcement of environmental crime legislation became a priority and was included in the 2019-23 Anti-social behaviour strategy. It was soon recognised that a separate Environmental Enforcement Strategy was required to re-enforce our commitment to this pledge.

The presence of fly tipped waste, litter and dog fouling has a serious and detrimental effect on our community, local businesses, and landowners. It has an adverse effect on investment, health, safety, and wellbeing.

The Environmental Enforcement Strategy sets out our responsibilities and response to environmental crime in the borough. Our efforts rely on our residents, businesses, stakeholders, and visitors taking personal responsibility for disposal of waste. Where this responsibility is lacking it is recognised that enforcement action may need to be taken.

Gravesham Borough Council's Corporate Plan for 2019-23 has committed to actively enforcing environmental standards, by using available powers to pursue anyone committing environmental crime or damaging the local environment.

As a result, in September 2020 the authority created its first Environmental Enforcement Team, which is tasked with education and enforcement relating to environmental crime.

Understanding the issue

Fly tipping is a significant blight on the local environment. It is a source of pollution, a potential danger to public health, and a hazard to wildlife. It also undermines legitimate waste businesses when unscrupulous operators undercut those operating within the law.

Local authorities have responsibilities relating to illegally deposited waste with certain obligations set out in legislation. These include clearance of waste and investigation of fly tipping offences.

Between 2011 and 2019, the United Kingdom saw a steady rise in reports of fly tipping. This increase was echoed in reports to Gravesham Borough Council. Between April 2019 and April 2020 there were 3,269 reports of fly tipping to the authority.

Key legislation

The Environmental Protection Act 1990 sets out the main environmental offences.

S.33 (1) (a) Fly tipping

Depositing, knowingly causing or knowingly permitting the deposit of controlled waste or extractive waste on land without, or other than in accordance with, an environmental permit.

Other subsections cover the transport, keeping and processing of controlled waste.

Section 34. Duty of Care

This section covers an individual or body's responsibility to ensure that controlled waste is collected, transported, stored and processed lawfully and responsibly.

Section 87(1). – Littering offences

Provides that a person is guilty of an offence if he throws down, drops or otherwise deposits any litter in any land or water open to the air and leaves it.

The Control of Pollution (Amendment) Act 1989 – Waste Carriers

sets out a waste carrier's responsibility to be registered with the Environment Agency to carry controlled waste.

Anti-Social Behaviour Crime and Policing Act 2014

This legislation allows local authorities to issue notices to individuals whose behaviour has a continuing and detrimental effect on the community. This can cover behaviour such as failing to clean up after a dog, or placing waste out for collection at the wrong time or in the wrong location. Breach of a notice can lead to the issuing of a fixed penalty fine or prosecution at court.

Our Aims and Strategy

Our aim is to reduce littering, dog fouling and the unlawful deposit of controlled waste throughout the borough. We will achieve this by tackling the issue through proportional and appropriate enforcement, based on evidence and seriousness of the offence, as determined on a case-by-case basis.



Our enforcement activities will be carried out in a fair, consistent, and proportionate manner, focusing on education, but ensuring that those who flout the law face the consequences.

We will challenge anyone involved in environmental crime, be it large scale fly tipping and illegal waste processing, littering or dog fouling.

We will work with residents, businesses, stakeholders, and partners to prevent environmental crime and ensure that Gravesham is a borough in which they can be proud to live, work and visit.

Our officers will seek to recover costs of investigation and clearance from offenders both for Gravesham Borough Council and on the behalf of anyone who is a victim of the crime.

Whilst we cannot remove fly tipped waste from private land, we will thoroughly investigate offences on such land, prosecute offenders and seek compensation for landowners.

The legislation under which we work and the penalties for environmental offences are set by central government, and we have no control over this. However, it is our intention to seek and support the introduction of new laws and extend existing legislation that could assist our investigation and enforcement activities. We will also lobby for fixed penalty fines that reflect the seriousness of environmental crime and act as a genuine deterrent to future offending.

The Environmental Enforcement Team

The Environmental Enforcement Team is part of the Communities Directorate and is overseen by the Parking and Environmental Enforcement Manager. The team consists of an Environmental Enforcement Manager, two Street Scene Enforcement Officers, an Environmental Crime Investigator and two Environmental Crime Officers.

The team is 7 people, with the Parking and Environmental Enforcement Manager overseeing the Environmental Enforcement Manager. The Enforcement Manager is responsible for Environmental Crime Investigator, Crime Officers, and Street Scene Enforcement Officers. The current team structure is show in the below hierarchy



All officers working in the Environmental Enforcement Team have delegated powers and are authorised to carry out their duties.

They receive initial and on-going in-house training and will attend external recognised enforcement training to ensure that they provide a professional service, which complies with current legislation and working practices. The ongoing training ensures that the team are up to date with legislation and ensures best practise within the service.

Officers from the teamwork with partner agencies, including Kent boroughs and districts, the Police, the Environment Agency, and Highways England. They will also work in partnership with Gravesham Borough Council's internal teams, including Community Safety, Waste Management Unit, Legal Services and Housing.

Street Scene Enforcement Officer (SSEO's), carry out the initial investigation and enforcement of environmental offences, including littering, dog fouling and assist the Environmental Crime Officers with fly-tipping investigations and other environmental crime reports.

SSEO's will be required to carry out highly visible uniformed patrols, on foot and by vehicle, in urban and rural locations, across Gravesham. SSEO's will educate when possible but, when necessary, will take enforcement action against offenders by issuing fixed penalty

notices and community protection warnings and notices, for low-level environmental offences, such as littering and dog fouling and small-scale fly tipping offences. They will patrol 'hot spot' areas identified from reports received from residents, businesses, council teams and partner agencies.

Environmental Crime Officers and the Environmental Crime Investigator attend incidents of fly tipping and other more serious environmental offences, carrying out thorough investigations of environmental offences by searching waste, seizing evidence, carrying out local enquiries and obtaining evidence from witnesses.

Where evidence of possible offenders can be found officers will carry out full investigations of the environmental offences and will take the appropriate enforcement actions. This may result in the issuing of a fixed penalty notice or, where necessary, submission of a full prosecution case file. This would involve taking witness statements and formally interviewing suspects.

Enforcement Officers also participate in proactive and targeted multi agency projects such as Operation Assist and Operation Nightjar to detect and deter environmental crime.

Officers are authorised in law and/or delegated by Cabinet to investigate environmental offences and can use the following powers:

- Anti-Social Behaviour Act 2003
- Anti-Social Behaviour Crime and Policing Act 2014
- Clean Neighbourhoods and Environment Act 2005
- Control of Pollution (amendment) Act 1989.
- Environment Act 1995
- Environmental Protection Act 1990
- Scrap Metal Dealers Act 2013
- Town and Country Planning Act 1990
- Police and Criminal Evidence Act 1994 (Investigative powers only)
- Regulation of Investigatory Powers Act 2000.
- Local Byelaws and regulations.

How we investigate

The Environmental Enforcement Team will investigate environmental offences that occur on public land and highways.

They will also investigate offences on private land and areas administered by Kent County Council where evidence of an offender can be found. The authority cannot however remove waste deposited on private land, as this is the responsibility of the landowner. However, following a successful prosecution, we will seek compensation for the landowner for any costs resulting from such clearance.

Large-scale offences, those that involve toxic waste or are believed to be part of organised crime activity fall within the jurisdiction of the Environment Agency (E.A). These cases are passed to them for investigation. Our Enforcement Officers will work in partnership with the E.A and will support their investigations where necessary.

All reports of fly tipping received by Gravesham Borough Council are triaged by the Environmental Enforcement Manager. They remove duplicate reports and reports that do not constitute a fly tip such as litter or abandoned shopping trolleys. In cases where a report can be investigated, officers will attend the scene of an offence and search for evidence. They

will also look for CCTV evidence and carry out house-to-house enquiries to identify witnesses.

The officers may have to take multiple statements.

If a person, who is suspected to be involved in an offence, is unable or unwilling to speak to the investigator, the officer will serve a notice on them requiring them to provide documentation, which could prove or disprove their involvement in an offence. The subject is given 14 days to respond to the notice. Failure to do so is itself a criminal offence and GBC officers have had several successful court prosecutions relating to this.

If the suspect for the offence is cooperative, they will be invited to a formal interview, which is undertaken as a criminal interview under caution.

If after the investigation, the investigator believes that they have enough evidence to prove an offence or offences they will produce a prosecution file. The file is a substantial piece of work and can run into several hundred pages. It must include all statements, exhibits and a full written transcript of a formal interview, which can take many hours to complete.

After a prosecution file is completed, it is reviewed by the Environmental Enforcement Manager to ensure that there is sufficient evidence for prosecution and that the investigation has complied with all legal requirements.

It is then submitted to the Gravesham Borough Council legal team who will further check its quality and arrange a summons to be served and a court date set. Whenever a case is submitted, officers apply for costs from the defendant, which includes officer time and clearance costs.

They will also seek compensation for anyone affected by the offence.

The below flow chart gives a breakdown of the process when investigating and enforcing a routine fly tipping report.

Levels of Enforcement

Education

Gravesham Borough Council realises that on occasions a lack of knowledge or understanding can result in unacceptable behaviour. Mistakes can be made, and we recognise that members of the community sometimes need educating and advising about their responsibilities relating to the lawful disposal of waste.

We use education to prevent offences re-occurring. For example, if a vulnerable resident is misled, or duped by an unscrupulous waste carrier resulting in an offence, appropriate advice and support will be given to ensure that the individual is not a victim of future offences.

However, officers will still investigate, obtain evidence from the victim, and prosecute anyone who victimises any vulnerable person.

Street Scene Enforcement Officers patrol areas of concern and speak to residents and businesses, providing them with details of the borough's services and, if necessary, signposting them to appropriate internal departments or outside agencies.

In addition, the Environmental Enforcement Team work closely with the authority's media and communications team and run a rolling media campaign that highlights the responsibilities of residents and businesses to back up and support the educational work of the enforcement team.

Community Protection Warnings and Notices

Using powers provided by the Anti-social Behaviour Crime and Policing Act 2014, authorised officers from the Environmental Enforcement Team can issue warnings to individuals whose behaviour is having a lasting and detrimental effect on the community and neighbourhood.

This can include the continued misplacement of household waste or putting household waste out for collection at the wrong time. Both of which can lead to vermin and other health hazards.

In the initial instance, a warning must be issued stipulating what the resident or business must do to rectify the issue.

If the warning is ignored a formal notice is served. If this is not complied with the offender can face a fixed penalty fine or a court prosecution. The maximum fine upon conviction is £2500.

The authority may also seek a Community Behaviour Order from the court to ensure that the detrimental behaviour is stopped for up to 5 years.

Fixed Penalty Notices

Authorised officers can issue Fixed Penalty Notices to offenders involved in low-level environmental crime.

These include:

- Dog Fouling
- Littering
- Small scale fly tipping offences
- Breaches of a Community Protection Notice
- Failing to produce waste carriage documents
- Failing to register as a waste carrier with the Environment Agency
- Failing to comply with a householder's duty of care to ensure the lawful disposal of controlled waste.

Fixed Penalty Notices (FPNs) allow the offender to pay a fine and discharge criminal liability for an offence. They allow offenders to avoid court prosecution and a possible criminal record. FPNs will only be issued in appropriate cases where a FPN is more appropriate than a court prosecution. Each case will be assessed on its merits.

The penalty levels for Fixed Penalty Notices are set by central government and cannot be changed by Gravesham Borough Council, unless there is change in legislation. However, Gravesham Borough Council's penalties are set at the maximum amount permissible.

- Littering FPN - £150
- Dog Fouling - £75
- Fly Tipping FPN - £400
- Failure in duty of care FPN - £400
- Waste carriage offences FPN - £400
- Breach of Community Protection Notice - £100

There is no formal appeal against a Fixed Penalty Notice. If the recipient does not agree that they are guilty of the offence, they can request a court hearing. However, it is worth noting that if the case is tried at court and the court finds the offender guilty a much higher penalty will result.

If the offender fails to pay a FPN, the environmental enforcement team, will produce a case file for court prosecution. If convicted offenders face a much higher penalty and a criminal record.

Court Prosecution

In serious cases, the Environmental Enforcement Team will prepare a file and prosecute offenders at court. Some environmental offences can be prosecuted at Magistrates or Crown Court.

A decision to prosecute at court will rely on a number of factors; however, each case will be assessed on an individual basis.

The matters considered when considering court prosecution include:

- The amount of waste deposited and clear up costs
- The items that have been deposited
- The location
- The impact upon the neighbourhood, community or landowner
- The impact upon the environment and ecosystem
- The honesty of the offender
- The offender's willingness to cooperate with the enquiry
- If the offender has committed offences before and/or has had previous sanctions imposed on them

We will only prosecute cases, which reach the threshold of evidence, proportionality and are in the public interest.

All enforcement decisions and actions are 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
- Freedom of Information Act 2000
- Equalities Act 2010
- Equal rights and anti-discrimination legislation

With any Court prosecution case GBC will always attempt to reclaim costs from a successful prosecution.

Proactive Enforcement Action

The use of Covert and Overt cameras

The Environmental Enforcement Team will use CCTV evidence captured by public and private camera systems in their investigations.

We will also deploy our own covert cameras to locations, which are identified as fly tipping 'hot spots'. Covert cameras allow the team to detect offences, which occur in remote and secluded locations, which are often the target of fly tippers. Deployment of cameras is only undertaken after a strict assessment process and all deployments comply with Regulation of Investigatory Powers Act 2000 (RIPA) surveillance and data protection legislation.

Joint operations with partner agencies

The Environmental Enforcement Team carry out regular proactive joint operations with partner agencies, including Kent Police. The operations called Operation Assist allow us to use the police powers to stop vehicles involved in the carriage of controlled waste. Officers are then able to examine documentation and any waste carried to ascertain that the carrier is licenced with The Environment Agency and has completed the required waste transfer documentation.

In addition, the police and partner agencies will deal with any other criminal or road traffic offences that come to light.

In the year 2021-22 Gravesham Borough Council carried out Five (5) such operations. These led to several prosecutions and the issuing of Fixed Penalty Notices. In addition, a number of vehicles, which were being used to carry controlled waste, were seized by Kent Police officers.

Reporting Fly-tipping

[Fly tipping can be reported quick and easy online](#) or by telephoning 01474 337000.

Once an offence is reported, it is given a unique reference number.

All reports are triaged by the Environmental Enforcement manager to ensure that the matter is a fly tipping and has not been previously reported.

The report is assessed to ascertain if there is likely to be any evidential evidence within the waste or other evidence capture possibilities in the area.

If there is no possibility of evidential capture the report is passed to the Waste Management Unit for immediate clearance.

If there is any chance of evidence capture a member of the Environmental Enforcement team will attend, search the waste, and seek witnesses and/or CCTV evidence.

Members of the public and council staff are encouraged to report all fly tipping offences as soon as possible. This enables a detailed picture to be built of fly tipping 'hot spots' and allows officers to attend and gather evidence with a view to identifying offenders.

Enforcement actions and outcomes

Fly tipping reports

The number of reports of fly tipping to Gravesham Borough Council have reduced in the last three years. This is despite the process of reporting being simplified and the community and all our staff being encouraged to make reports of incidents.

Each report of fly tipping is triaged and scrutinised by the Environmental Enforcement Manager. Those which are non-relevant reports, are duplicates, or do not fit the definition of fly tipping are not progressed.

A strong media campaign by Gravesham Borough Council Waste Management Unit and Kent County Council has ensured that the community and our residents have access to current information regarding the correct methods of waste disposal and the location of Household Waste and Recycling Sites.

Where fly tipping offences occur and investigations lead to enforcement action, we ensure that, our communities are aware of the outcome and the consequences of environmental crime through regular media coverage. In the case of court convictions, the name and area

of residence of the offenders is always publicised. This appears to be having a strong deterrent effect.

The team's performance is by recorded and monitored through the Corporate Management System and Quarterly reporting.

The use of media in investigation and prevention

The Environmental Enforcement Team works closely with The Gravesham Borough Council Media Team.

The work involves the production of advice and educational literature, and the publicising of enforcement action.

The media team regularly run campaigns relating to the correct way to dispose of waste, reinforcing the responsibilities of householders and businesses.

Enforcement action undertaken is publicised to highlight the consequences of committing environmental crime. Anyone found guilty of environmental offences at court will be 'named and shamed' either on social media or in local news outlets.

The Environmental Enforcement Team also regularly seek help from the public in their investigations by posting appeals on social media and in the press.

The social media posts have seen some of the most positive comments of all media updates that the communications team have posted.

You can see [examples of our media releases and information about environmental crime](#) on our website.

Performance Monitoring and Reporting Progress

An Operational Action Plan will sit underneath this strategy and will have clear objectives and will include performance indicators in both qualitative and quantitative form to be monitored on a regular basis to demonstrate the impact of work being carried out.

Reports will be provided twice yearly (mid-year and year-end to the Council's Community and Leisure Cabinet Committee). It is also expected that these reports will be shared with the Council's Management Team as appropriate and building on the Council's Community Engagement Strategy and Communications Strategy will be listening to residents about their views on this matter and therefore reserve the right to target the resources based on the needs of residents.