

OVERVIEW & SCRUTINY COMMITTEE MEETING

Date: Tuesday 17 October 2023
Time: 6.30 pm
Venue: Town Hall, High Street Maidstone

Membership:

Councillors Mrs Blackmore, Cannon, Clark, Cleator (Vice-Chairman), Conyard, Eagle, English (Chairman), Mrs Gooch, Hastie, Hinder, Round, S Thompson and Webb

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Notification of Visiting Members
5. Disclosures by Members and Officers
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information
8. Minutes of the Meeting Held on 19 September 2023 - To Follow
9. Presentation of Petitions (if any)
10. Question and Answer session for Local Residents (if any)
11. Questions from Members to the Chairman (if any)
12. Cabinet Forward Plan

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An updated version of the Cabinet Forward Plan will be available on Friday 13 October 2023, which can be accessed using the link below:

[Your Councillors - Maidstone Borough Council](#)

Issued on Monday 9 October 2023

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

- | | |
|------------------------------------------------------|---------|
| 13. Committee Work Programme | 11 - 12 |
| 14. Environmental and Waste Crime Enforcement Review | 13 - 47 |

INFORMATION FOR THE PUBLIC

In order to ask a question at this meeting, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Friday 13 October 2023). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to make a statement in relation to an item on the agenda, please call **01622 602899** or email committee@maidstone.gov.uk by 4 p.m. one clear working day before the meeting (i.e. by 4 p.m. on Friday 13 October 2023). You will need to tell us which agenda item you wish to speak on.

If you require this information in an alternative format please contact us, call **01622 602899** or email committee@maidstone.gov.uk.

To find out more about the work of the Committee, please visit the [Council's Website](#).

MAIDSTONE BOROUGH COUNCIL FORWARD PLAN FOR THE FOUR MONTH PERIOD 1 SEPTEMBER 2023 TO 31 DECEMBER 2023

This Forward Plan sets out the details of the key and non-key decisions which the Cabinet or Cabinet Members expect to take during the next four-month period.

A Key Decision is defined as one which:

1. Results in the Council incurring expenditure, or making savings, of more than £250,000; or
2. Is significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Borough

The current Cabinet Members are:

→	 Councillor David Burton Leader of the Council DavidBurton@maidstone.gov.uk 07590 229910	 Councillor Paul Cooper Deputy Leader and Cabinet Member for Planning, Infrastructure and Economic Development PaulCooper@Maidstone.gov.uk 01622 244070	 Councillor John Perry Cabinet Member for Corporate Services JohnPerry@Maidstone.gov.uk 07770 734741
	 Councillor Claudine Russell Cabinet Member for Communities, Leisure and Arts ClaudineRussell@Maidstone.gov.uk	 Councillor Patrik Garten Cabinet Member for Environmental Services PatrikGarten@Maidstone.gov.uk 01622 807907	 Councillor Lottie Parfitt-Reid Cabinet Member for Housing and Health LottieParfittReid@Maidstone.gov.uk 07919 360000

Anyone wishing to make representations about any of the matters listed below may do so by contacting the relevant officer listed against each decision, within the time period indicated.

Under the Access to Information Procedure Rules set out in the Council's Constitution, a Key Decision or a Part II decision may not be taken, unless it has been published on the forward plan for 28 days or it is classified as urgent:

The law and the Council's Constitution provide for urgent key and part II decisions to be made, even though they have not been included in the Forward Plan.

Copies of the Council's constitution, forward plan, reports and decisions may be inspected at Maidstone House, King Street, Maidstone, ME15 6JQ or accessed from the [Council's website](#).

Members of the public are welcome to attend meetings of the Cabinet which are normally held at the Town Hall, High St, Maidstone, ME14 1SY. The dates and times of the meetings are published on the [Council's Website](#), or you may contact the Democratic Services Team on telephone number **01622 602899** for further details.

David Burton
Leader of the Council

Details of the Decision to be taken	Decision to be taken by	Relevant Cabinet Member	Expected Date of Decision	Key	Exempt	Proposed Consultees / Method of Consultation	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated
<p>Medium Term Financial Strategy and Budget Proposals</p> <p>ω</p>	Cabinet	Cabinet Member for Corporate Services.	20 Sep 2023	No	No	<p>Communities, Leisure and Arts Policy Advisory Committee 5 Sep 2023</p> <p>Planning, Infrastructure and Economic Development Policy Advisory Committee 6 Sep 2023</p> <p>Housing, Health and Environment Policy Advisory Committee 7 Sep 2023</p> <p>Corporate Services Policy Advisory Committee 11 Sep 2023</p> <p>Overview & Scrutiny Committee 19 Sep 2023</p>	Medium Term Financial Strategy 2024 to 2029 - Saving Proposals and Fees and Charges	<p>Mark Green, Adrian Lovegrove</p> <p>Director of Finance, Resources & Business Improvement, Head of Finance</p> <p>markgreen@maidstone.gov.uk,</p> <p>adrianlovegrove@maidstone.gov.uk</p>

Details of the Decision to be taken	Decision to be taken by	Lead Member	Expected Date of Decision	Key	Exempt	Proposed Consultees / Method(s) of Consultation	Documents to be considered by Decision taker	Representations may be made to the following officer by the date stated
<p>Waste Crime Fixed Penalty Notices</p> <p>To review the value Fixed Penalty Notice (FPN) charges</p>	Cabinet	Cabinet Member for Environmental Services	20 Sep 2023	No	No Open	Housing, Health and Environment Policy Advisory Committee 7 Sep 2023	Waste Crime Fixed Penalty Notices	<p>Jennifer Stevens</p> <p>Head of Environmental Services & Public Realm</p> <p>jenniferstevens@maidstone.gov.uk</p>
<p>Public consultation in relation to the Kent Community Warden Scheme (KCWS)</p> <p>Kent County Council are currently undertaking a public consultation on the provision of Kent Community Wardens. In order to meet financial pressures there is a proposal to significantly reduce the wardens. This is likely to significantly impact on vulnerable residents who are supported by this well established service.</p>	Cabinet Member for Housing and Health	Cabinet Member for Housing and Health	Before 29 Sep 2023	Yes	No	<p>Housing, Health and Environment Policy Advisory Committee 7 Sep 2023</p> <p>Overview & Scrutiny Committee 19 Sep 2023</p>	Public consultation in relation to the Kent Community Warden Scheme (KCWS)	<p>Martyn Jeynes</p> <p>martynjeynes@maidstone.gov.uk</p>

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MBC Housing Management Policies Views are sought on a range of housing management policies that will inform officers and tenants of the Council's new affordable housing portfolio.	Cabinet Member for Housing and Health	Cabinet Member for Housing and Health	2 Oct 2023	No	No Open	Housing, Health and Environment Policy Advisory Committee 7 Sep 2023	MBC Housing Management Policies	John Littlemore Head of Housing & Regulatory Services johnlittlemore@maidstone.gov.uk
Levelling-up and Regeneration Bill: Consultation on implementation of plan-making reforms	Cabinet Member for Planning, Infrastructure and Economic Development	Cabinet Member for Planning, Infrastructure and Economic Development	9 Oct 2023	No	No Open	Planning, Infrastructure and Economic Development Policy Advisory Committee 4 Oct 2023	Levelling-up and Regeneration Bill: Consultation on implementation of plan-making reforms	Jennie Cullern, Tom Gilbert JennieCullern@Maidstone.gov.uk, tomgilbert@maidstone.gov.uk
Statement of Common Ground - Lower Thames Crossing To formally agree a draft Statement of Common Ground between the Council and National Highways regarding the Lower Thames Crossing.	Cabinet Member for Planning, Infrastructure and Economic Development	Cabinet Member for Planning, Infrastructure and Economic Development	Before 16 Oct 2023	Yes	No	Planning, Infrastructure and Economic Development Policy Advisory Committee 4 Oct 2023	Statement of Common Ground - Lower Thames Crossing	Erik Nilsen ErikNilsen@Maidstone.gov.uk

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<p>Council Tax Reduction Scheme 2024/25</p> <p>Each year the Council is required to review its annual localised Council Tax Reduction scheme. The report is required to go to Cabinet with a final approval by Full Council prior to 11 March.</p>	Cabinet	Cabinet Member for Corporate Services.	25 Oct 2023	Yes	No Open	Corporate Services Policy Advisory Committee 11 Oct 2023	Council Tax Reduction Scheme 2024/25	<p>Zoe Kent</p> <p>Interim Head of Revenues & Benefits</p> <p>zoekent@swale.gov.uk</p>
<p>Maidstone Leisure Centre - Operator Contract</p> <p>A report on Maidstone Leisure Centre</p>	Cabinet	Cabinet Member for Communities, Leisure and Arts	25 Oct 2023	Yes	No Part exempt	Communities, Leisure and Arts Policy Advisory Committee 3 Oct 2023	Maidstone Leisure Centre	<p>Mike Evans</p> <p>mikeevans@maidstone.gov.uk</p>
Property Acquisition	Cabinet	Cabinet Member for Housing and Health	25 Oct 2023	Yes	No Part exempt	<p>Housing, Health and Environment Policy Advisory Committee 10 Oct 2023</p> <p>Notification to Ward members and briefing to Executive and Lead Member</p>	Property Acquisition	<p>Rachael Bennett, Philip Morris</p> <p>RachaelBennett@Maidstone.gov.uk, philipmorris@maidstone.gov.uk</p>

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Property Acquisition for 1000 Affordable homes programme	Cabinet	Cabinet Member for Housing and Health	25 Oct 2023	Yes	No Part exempt	Housing, Health and Environment Policy Advisory Committee 10 Oct 2023 Notification to ward members and briefing Cabinet and Lead member	Property Acquisition for 1000 Affordable homes programme	Chris Nixon ChrisNixon@Maidstone.gov.uk
T own Centre Strategy - Consultation Report A report on the next stage of the Town Centre Strategy	Cabinet	Leader of the Council	25 Oct 2023	No	No Open	Planning, Infrastructure and Economic Development Policy Advisory Committee 4 Oct 2023	Town Centre Strategy - Consultation Report	Karen Britton, Alison Broom karenbritton@maidstone.gov.uk, alisonbroom@maidstone.gov.uk
Consideration of a proposal to extend and improvement works to Medway street carpark	Cabinet	Cabinet Member for Corporate Services.	25 Oct 2023	No	No Open	Corporate Services Policy Advisory Committee 11 Oct 2023	Consideration of a proposal to extend and improvement works to Medway street carpark	Katie Exon Head of Property and Leisure katieexon@maidstone.gov.uk

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<p>Air Quality Action Plan</p> <p>Air quality action plan developed as a result of revised air quality management area</p>	Cabinet	Cabinet Member for Environmental Services	25 Oct 2023	No	No Open	Housing, Health and Environment Policy Advisory Committee 10 Oct 2023	Air Quality Action Plan	<p>Duncan Haynes, Stuart Maxwell</p> <p>duncan.haynes@midkent.gov.uk, stuart.maxwell@midkent.gov.uk</p>
<p>Tackling Anti-Social Behaviour relating to dogs Updating our enforcement tools</p> <p>The current Dog Control PSPO expires on 20th October. PSPOs have to be renewed every 3 years. A public consultation has been undertaken on a number of updated measures to tackle a range of issues, including fouling, dogs out of control and areas where dogs should be excluded or kept on a lead.</p>	Cabinet Member for Housing and Health	Cabinet Member for Housing and Health	Before 28 Oct 2023	Yes	No	Housing, Health and Environment Policy Advisory Committee 7 Sep 2023	Tackling Anti-Social Behaviour relating to dogs Updating our enforcement tools	<p>Martyn Jeynes</p> <p>martynjeynes@maidstone.gov.uk</p>

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Medway Local Plan 2022-2040 Regulation 18 Consultation	Cabinet Member for Planning, Infrastructure and Economic Development	Cabinet Member for Planning, Infrastructure and Economic Development	Before 31 Oct 2023	Yes	No	Planning, Infrastructure and Economic Development Policy Advisory Committee 4 Oct 2023	Medway Local Plan 2022-2040 Regulation 18 Consultation	Mark Egerton, Tom Gilbert markegerton@maidstone.gov.uk, tomgilbert@maidstone.gov.uk
Housing Revenue Account The report sets out the options for management and financial accounting of the 1,000 new affordable homes.	Cabinet	Cabinet Member for Corporate Services.	22 Nov 2023	Yes	No Open	Housing, Health and Environment Policy Advisory Committee 7 Sep 2023	Housing Revenue Account	John Littlemore Head of Housing & Regulatory Services johnlittlemore@maidstone.gov.uk
Proposed Private Sector Leasing Scheme (PSL) and changes to the current Landlord Incentive Scheme (LIS).	Cabinet	Cabinet Member for Housing and Health	22 Nov 2023	No	No Open	Housing, Health and Environment Policy Advisory Committee 14 Nov 2023	Proposed Private Sector Leasing Scheme (PSL) and changes to the current Landlord Incentive Scheme (LIS).	William Cornall Director of Regeneration & Place williamcornall@maidstone.gov.uk

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Equality, Diversity and Inclusion - Annual Update	Cabinet	Cabinet Member for Communities, Leisure and Arts	20 Dec 2023	No	No Open	Communities, Leisure and Arts Policy Advisory Committee 7 Nov 2023	Equality, Diversity and Inclusion - Annual Update	Anna Collier, Orla Sweeney annacollier@maidstone.gov.uk, orlasweeney@maidstone.gov.uk

Maidstone Borough Council

Overview and Scrutiny Committee Work Programme, 2023-24 Municipal Year

Review Title & Objectives	Expected Start Date	Issue Type	Relevant Officer/s	Timetable
<p><u>Enforcement</u></p> <p>To focus on Environmental and Waste Crime Enforcement</p>	October 2023	Committee Review	<p>Jen Stevens, Head of Environment and Public Realm.</p> <p>Additional Officers to be identified.</p>	From October 2023 – tbc (likely December 2023).
<p><u>Health Inequality</u></p> <p>To:</p> <ul style="list-style-type: none"> - focus on the impact of poor-quality housing on health inequality - increase understanding of health inequalities across the borough 	To be confirmed.	Committee Review	<p>Alison Broom, Chief Executive,</p> <p>John Littlemore, Head of Housing and Regulatory Services</p>	To be confirmed.
<p><u>Water Management Cycle – Second Stage Review</u></p> <p>To review the remaining elements identified by the working group through its first review.</p> <p>UNDER REVIEW – Awaiting confirmation of external stakeholder attendance.</p>	July 2023.	Committee Review	<p>Mark Green, Director of Finance, Resources and Business Improvement</p> <p>Uche Olufemi, Emergency Planning & Resilience Manager</p> <p>Karen Britton, Head of Spatial Planning and Economic Development</p>	<p>July – to be confirmed 2023.</p> <p>Formal Report – November 2023 (estimated).</p>

Review Title & Objectives	Expected Start Date	Issue Type	Relevant Officer/s	Timetable
<u>Annual Scrutiny Report</u>	January 2024	Constitutional Requirement and best practice	Oliviya Parfitt, Principal Democratic Services Officer	Draft – January 2023 Final – February 2023, after which the report will be submitted to Full Council.
<u>Receipt of Cabinet SCRAIP – Water Management Cycle Review</u>	November 2023	Constitutional Requirement and best practice	As applicable.	N/A
<u>Selection of an Operator (Archbishops Palace)</u> 12	November 2023	Pre-decision Scrutiny	Mark Green, Director of Finance, Resources and Business Improvement Deborah Turner, Interim Strategic Property Consultant	N/A
<u>Forward Plan Monitoring</u>	2023/24 Municipal Year	Pre-decision Scrutiny	As applicable.	N/A
<u>Call-Ins</u>	2023/24 Municipal Year	Post-decision Scrutiny	As applicable.	N/A

Briefing Note – Overview and Scrutiny Committee

Environmental and Waste Crime Enforcement

Preamble

its 20 June 2023 meeting, the Committee agreed to undertake a review into Environmental and Waste Crime Enforcement, to take place via meetings of the Committee.

The scope is attached to this briefing note.

In July 2023, the Chairman and Vice-Chairman met with the relevant officers to discuss the review, with the following subjects being highlighted as important to Members and/or Officers as part of the review, based off the review scope and committee sentiments:

- Team focus & resources (including technological resources);
- Waste Crime Enforcement, to include fly-tipping, littering, fouling;
- Decisions made by KCC and their impact to Maidstone; and
- Fixed Penalty Notice increases and Member input into application of FPNs.

An information pack has been produced to support the review, which includes:

Example Questions

- What aspects of enforcement are carried out well?
- What are the main areas for improvement?
- How could these be improved?
- Is there an additional resource need or are there other changes that could be made to benefit the service's efficiency?
- What would be required to make this improvement and support it in the long-term?

Officer Attendees (Oct 2023 Meeting)

Jennifer Stevens, Head of Environmental Services and Public Realm

Responsible for the Environmental Services and Public Realm service area, including (but not limited to):

Enforcement of litter and waste control, street cleansing, refuse collection, public conveniences, grounds maintenance and parks and open spaces.

John Edwards, Public Realm Operations Manager and Carl McIvor, Waste Crime Manager.

See information pack for further information on team structure and responsibilities.

Next Steps

- Note any initial recommendations from internal stakeholder reviews;
- Conduct external stakeholder interviews (Nov 2023);
- Review if further information is required;
- Summarise recommendations for report;
- Submit report to Cabinet.

Environmental and Waste Crime Enforcement Review

Conducted by the Overview and Scrutiny Committee

Commencing October 2023

The Overview and Scrutiny Committee agreed the Environmental and Waste Crime Enforcement Review be added to the Work Programme on 20 June 2023.

A scope for the review was outlined, including its desired outcomes, suggested approach and timescales, and is attached to this information pack.

Following discussions between Chairman, Vice-Chairman and relevant officers', specific information relating to the Review has been provided in this pack.

Contents Summary

Documentation available in this pack:

Waste Crime Enforcement Team Overview	Provided by the Head of Environmental Services and Public Realm. Includes: - Waste Crime Team Time and Structure - Fixed Penalty Notices - Enforcement Performance - Fly Tipping Data - Surveillance and CCTV - Household Waste Recycling Centres, including policy changes to HWRCs. - Relevant Internal Policies - Resident survey results
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Waste Crime Team Timeline

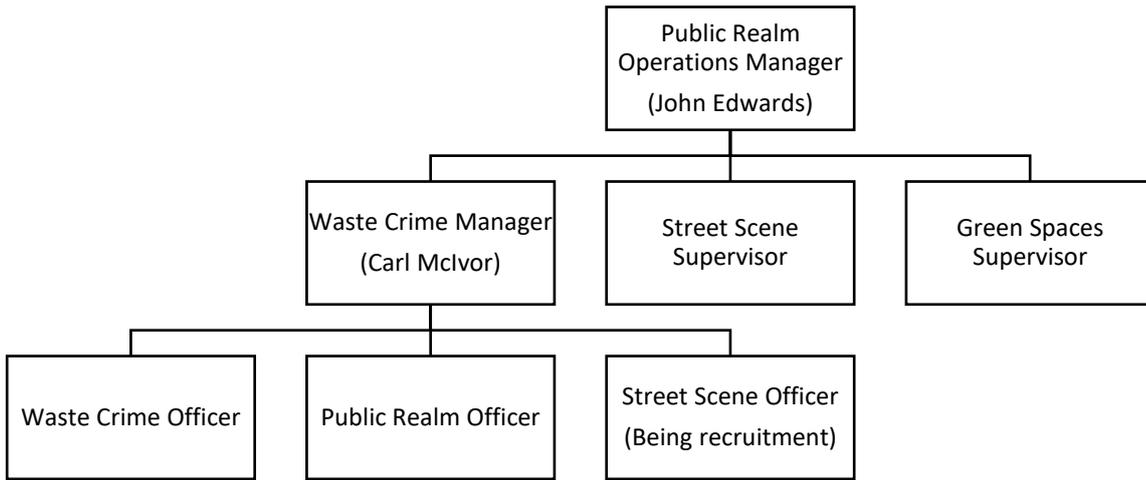
Below is a timeline outlining the activities and evolution of the team since its creation in 2018:

Year	Activities
2018	<ul style="list-style-type: none"> ➤ Waste Crime Team created from previous Environmental Enforcement Team ➤ Senior Waste Crime Officer transferred to Environmental Services ➤ Litter enforcement outsourced to Kingdom Security Services
2019	<ul style="list-style-type: none"> ➤ Contract with Kingdom Security Services ended by mutual agreement ➤ Litter enforcement taken in-house ➤ Waste Crime Team established with Waste Crime Manager, Waste Crime Officer and 2 x Street Scene Enforcement Officers ➤ Vehicle seizure policy created ➤ Focus on fly tipping over littering
2020	<ul style="list-style-type: none"> ➤ Staff retention issues with Street Scene Enforcement Officers ➤ Reduced to one Street Scene Enforcement Officer ➤ Focus on littering from vehicles rather than foot patrols ➤ Pandemic impacted ability to carry out active enforcement and team redeployed onto statutory services
2022	<ul style="list-style-type: none"> ➤ Waste Crime Manager left MBC ➤ Team reduced to single Waste Crime Officer whilst internal staffing issues resolved
2023	<ul style="list-style-type: none"> ➤ Recruitment of new Waste Crime Manager ➤ Reorganisation of Team

Current Team Structure

The Waste Crime Team reports to John Edwards, the Public Realm Operations Manager and consists of a Manager and three members of staff (one of which is currently being recruited). The Waste Crime Officer's role is taking enforcement action including issuing FPNs, deploying cameras and investigating fly tips. The Public Realm Officer's role is focused on street scene issues such as public conveniences, bins, benches, abandoned vehicles and street cleansing standards. These officers also support each other's roles to build resilience within the team. The Street Scene Officer is a junior role that will have the opportunity to develop in both areas and will provide support across the team.

On the next page is a diagram of the Team structure:



Fixed Penalty Notices

The FPNs for littering, fly tipping, graffiti and Duty of Care (household waste) have just been increased by the Council, following Government's changes to legislation. The new FPNs are set out below:

FPN	Level 1	Level 2
Littering	Single item e.g. cigarette end £250 <i>£200 if paid in 14 days</i>	Repeated offence Multiple items Rural / high-speed roads (difficult to cleanse) £500
Fly tipping	Single item / black sack (excluding hazardous) £600 <i>£520 if paid in 14 days</i>	Multiple items Multiple locations Hazardous waste £1,000
Graffiti	£250	N/A
Duty of Care (Household Waste)	£500 <i>£400 if paid in 14 days</i>	N/A

The remaining FPNs are at the maximum level allowed:

FPN	Value
Duty of Care (Commercial Waste)	£300
Waste Transfer	£300
Abandoned Vehicle	£200
Community Protection Notice	£100
Section 46 (Household Waste)	£100
Fly posting	£80

Payment rates for FPN's for the 12 months period between 1st August 2022 to 1st August 2023 are:

Litter FPN's - 17 issued 13 paid 76% payment rate.

Fly tipping FPN's - 16 issued 16 paid 100% payment rate.

The updated FPN policy has been attached to this pack.

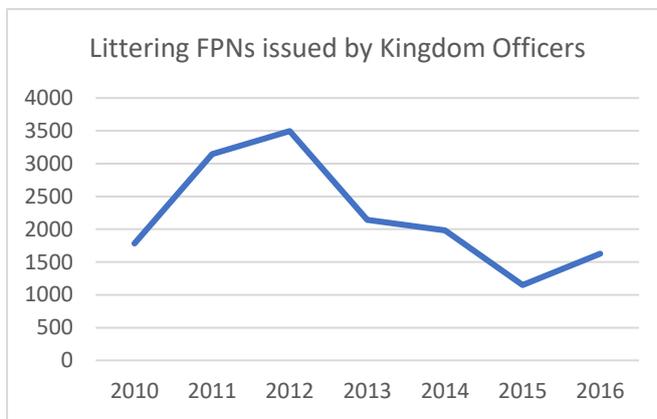
Enforcement Performance

The table below shows the performance of the team since it was established in 2018.

	2018-2019	2019-2020	2020-2022
Littering FPN	450*	364~	9
Fly tipping FPN	9	27	66
Duty of Care FPN	22		37
Dog Fouling FPN	3	3	2
Other Waste FPNs	34	-	40
Vehicle Seizure	N/A	25	3

* Issued by outsourced litter enforcement team (Kingdom Security Services)

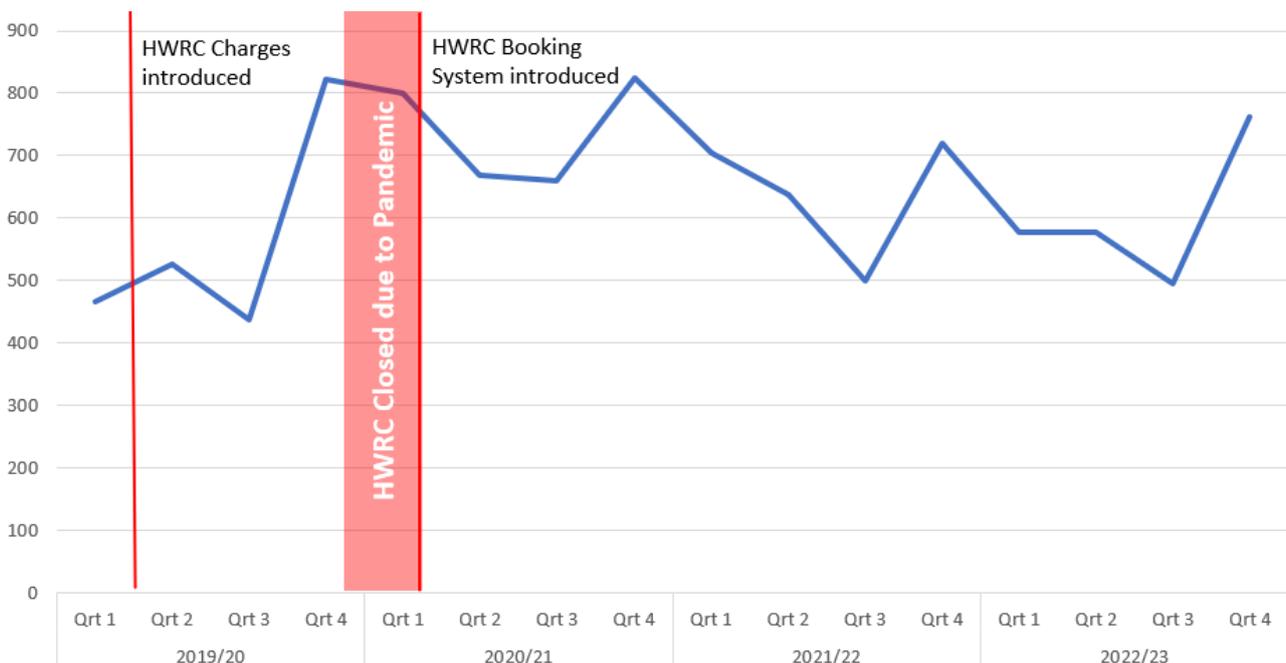
~ Issued by internal Street Scene Enforcement Team



This graph shows historic data on litter enforcement by Kingdom. This contract came to a mutual end as the income sharing arrangement to fund the officers was no longer financially viable due to a substantial drop in FPNs issued.

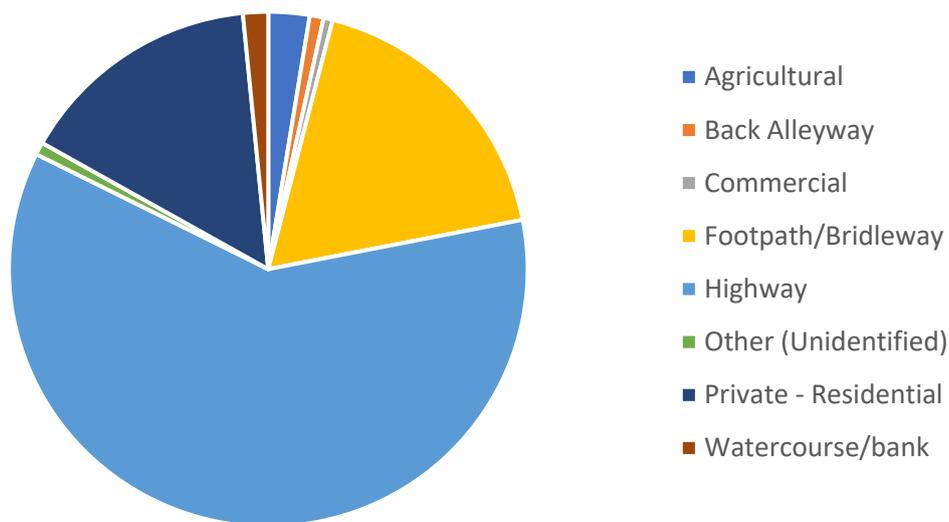
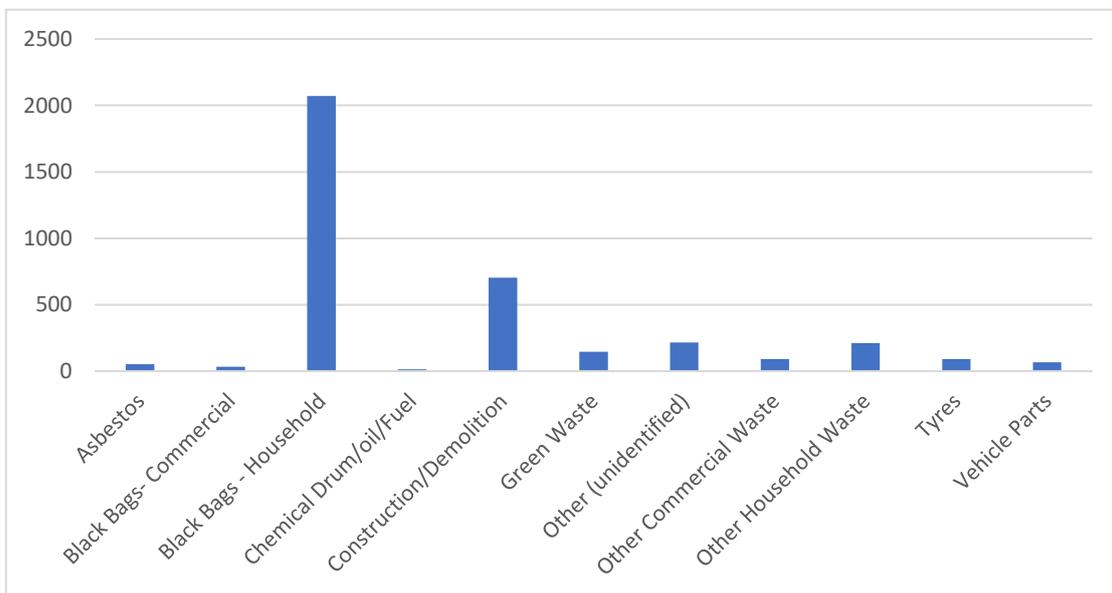
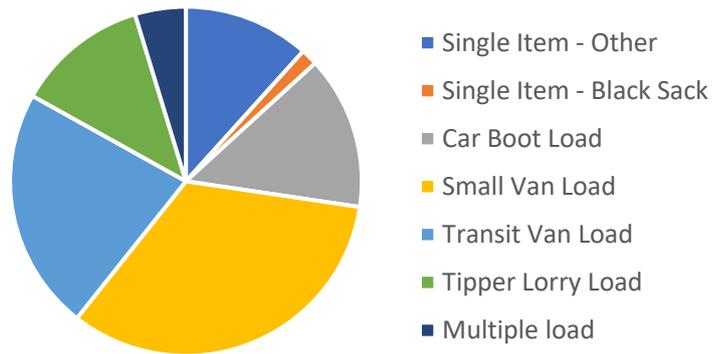
Fly tipping Data

The graph below shows the quarterly fly tipping data and key dates for HWRC changes.

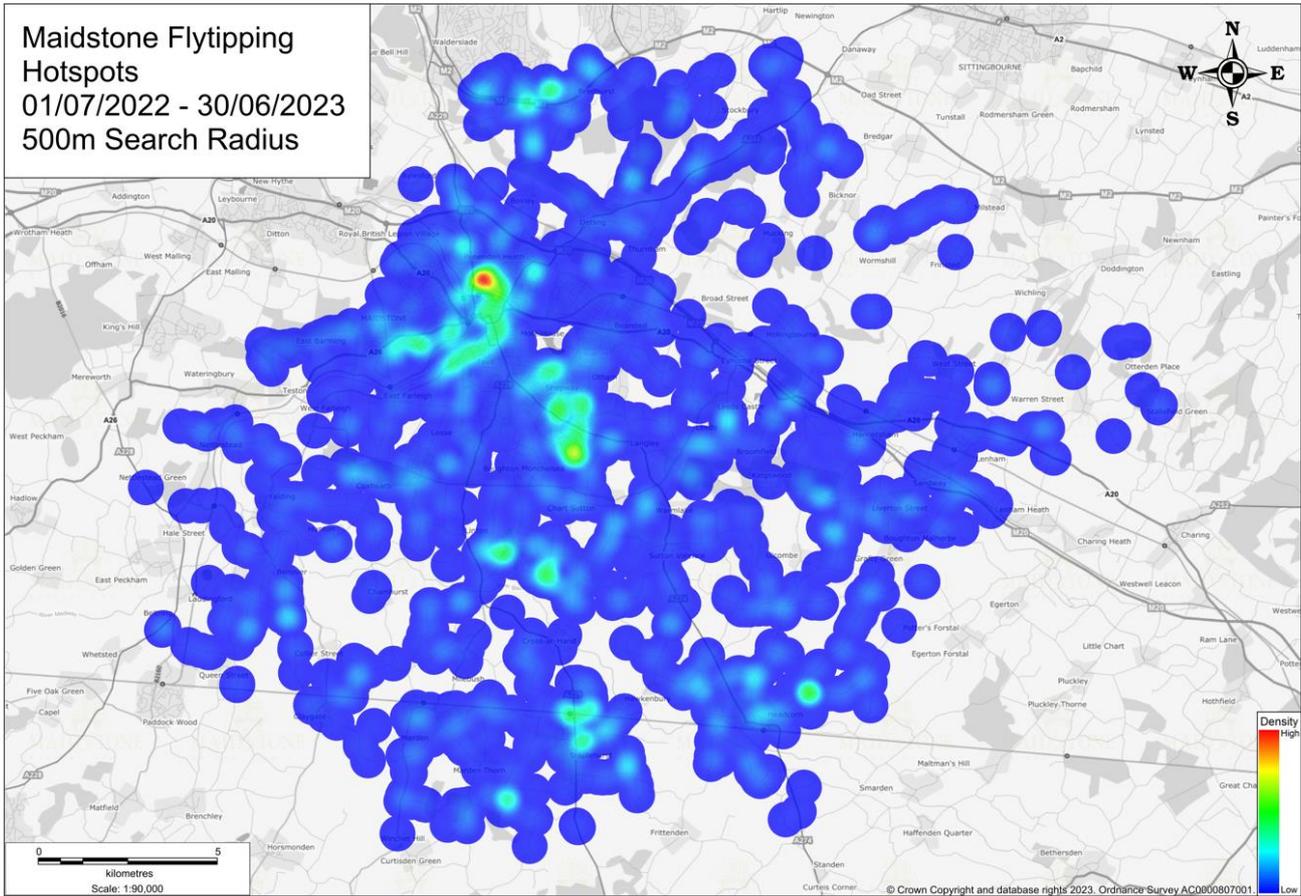


For the past 12 months, the main size of fly tip has been a *Small Van Load*, with *Transit* and *Car* being the next highest respectively.

The graph below shows the type of waste that this consisted of. Black bagged household waste remains the primary waste fly tipped.



Over 60% of fly tips occur on the highway, 18% on footpaths or bridleways and 15% on private land.



SURVEILLANCE AND COVERT CCTV

The main method of capturing evidence of fly tipping by the waste crime team is by using covert CCTV, this has mainly been undertaken by officers installing small, discreet trail/scouting cameras (see pictured below) in areas of regular incidents of fly tipping or as a reaction after a fly tipping incident. These cameras are relevant, cheap and easy to install but they have a limited memory storage and only a few days power sources therefore can become labour intensive to maintain and recently several units have been stolen.

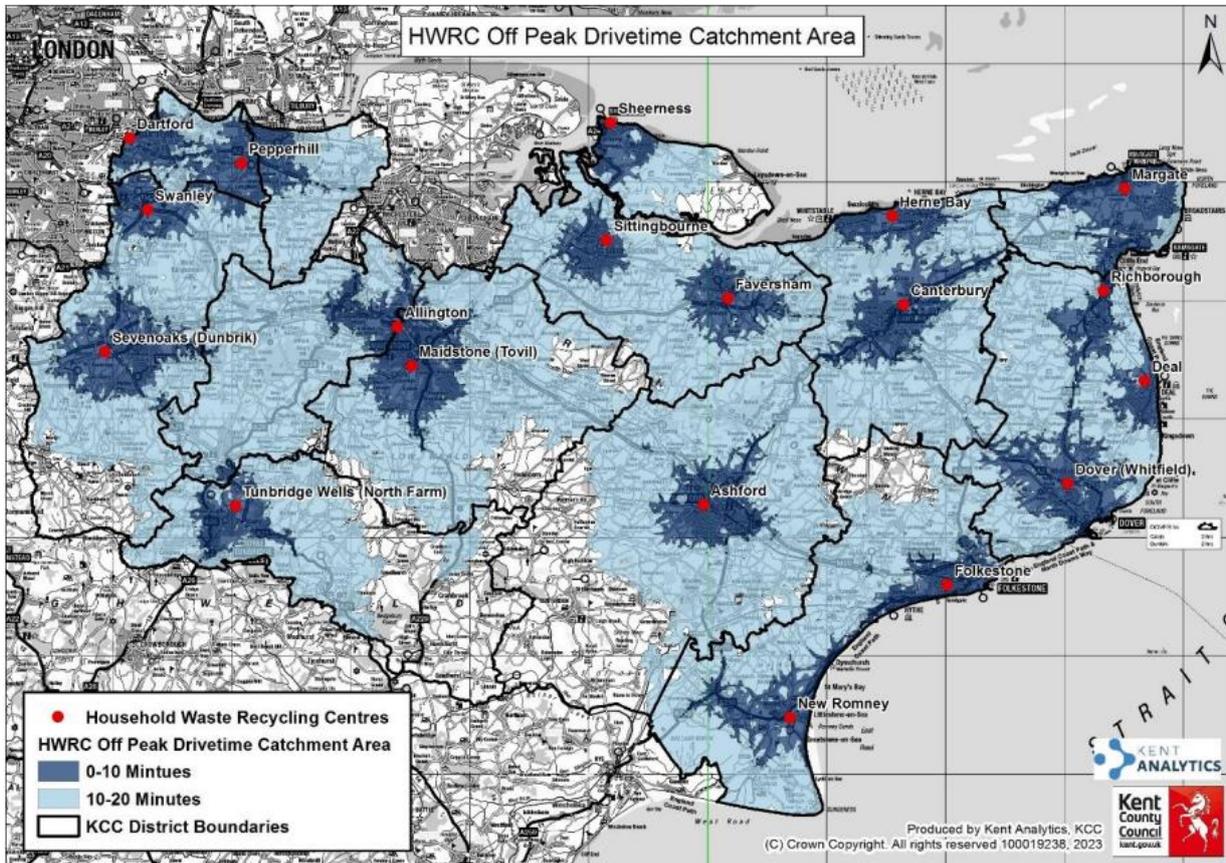


Having recently investigated the surveillance retail market there is clearly improvements in the technology with live feed cameras, tracked GPS within the hardware and improvements to battery energy meaning that a power source that can last for weeks or indefinitely when solar power is used. There are several UK based suppliers of technology that can provide a wholesale solution from providing new 4K cameras, installation training (including installing at heights) and live feed laptop based dashboards that can monitor the images from the CCTV but also the condition and location of the hardware. Below are a few examples of the latest hardware.



HOUSEHOLD WASTE RECYCLING CENTRES

Kent County Council operates one Household Waste Recycling Centre (HWRC) in Maidstone at Burial Ground Lane, Tovil. A new site, located on the boundary with Tonbridge and Malling Borough in Allington, has recently been opened. The map below shows the sites across Kent and their catchment areas.



Some recent and future policies changes at the HWRCs are:

2019	<p>Charges for some types of waste were introduced at Kent HWRCs. These charges were for:</p> <ul style="list-style-type: none"> ○ breeze blocks, bricks, cement, concrete, drainpipes, flagstones, granite, marble, paving slabs ○ ceramic bathroom and kitchen items (baths, bidets, cisterns, shower trays, sinks, toilet pans, wash basins) ○ hardcore, rubble, gravel, rocks, sand, stones, soil ○ plasterboard ○ tiles (ceramic, clay, slate) ○ tyres
2020	<p>A new booking system was introduced when the sites reopened after the pandemic</p>

May 2022	New HWRC opened at Allington
April 2023	Non-Kent residents required to pay £10 per visit to use Kent HWRCs
April 2023	Only Medway residents can use Medway HWRCs at Capstone, Gillingham and Cuxton following change to policy by Medway Council. KCC previously made payment to Medway to enable the use of these sites by Kent residents.
May 2023	KCC announced plans for consultation into the proposed closure of four HWRCs including Tovil. 2-month consultation is due to start at end of July.
July 2023	Government announced plan to remove charges for DIY waste at HWRCs. This has not been implemented yet

Relevant Internal Policies

➤ **Environmental Health, Waste Crime and Community Protection Enforcement Policy**

Attached.

➤ **Vehicle Seizures**

The seizures take place under 2 key points in legislation;

Section 5 Control of Pollution (Amendment) Act 1989 – transporting waste without the authority to do so (failure to produce a valid waste carrier licence).

Section 33/34/34B Environmental Protection Act 1990 – Section 33 illegally depositing waste (fly tipping)/section 34 breach of a duty of care imposed upon waste carriers.

The owners of the vehicle currently have 15 working days to collect the vehicle or the vehicle(s) will be destroyed or sold.

Claiming the vehicle:

- You must provide valid driving licence or passport
- Proof of address - two utility bills issued in the last three months in the applicants name
- V5 document
- Valid certificate of motor insurance

➤ **Side Waste Policy (Household Waste)** (excerpts from Waste Policy and Procedures)

- “Side Waste” means refuse or other waste materials from the household, left alongside the wheeled bin (or other container) or which prevent the lid from closing. (MBC Garden waste sacks are not classed as side waste and will be collected separately from refuse and recyclables.)
- No side waste will be collected when presented with the non-recyclable refuse bin, except for the two-week period containing the Christmas and New Year Bank Holidays in each year.
- Side waste of recyclable material will be collected with the recyclable waste container on the appropriate collection days, provided it is suitable contained in rigid containers (recycling box or cardboard box) and not in refuse sacks or plastic carrier bags.
- Due to the nature of the waste side waste should not be presented next to the external food waste caddy. Additional caddies will be provided where necessary.

➤ **Household Waste Enforcement** (excerpts from Waste Policy and Procedures)

Enforcement Residual Waste

- Where a resident does not wish to participate in the service (for example, the resident finds the bin unsightly or they are not prepared to accept or use the containers provided) a number of steps will be taken to ensure that the householder is fully aware of how the service operates. These steps are set out below, the final step being to take enforcement action using powers given to the Council under the Environmental Protection Act 1990.
 - If the resident fails to use the recycling or food waste collection service but instead stores all their waste in their grey refuse bin or sacks (if on sack collections) between refuse collections, then no enforcement action would be taken.
 - However, where a resident uses their recycling container for residual waste, the following steps will be taken:
 - a. On the first occasion, the recycling container will not be collected by the recycling crew and a sticker placed on the bin by the crew explaining why the container hasn't been emptied, and that it will be emptied by the residual waste collection vehicle on the following week. Side waste arising from this incident will also be collected at that time.
 - b. On the second occasion, the same procedure will be followed.
 - c. On the third occasion within any rolling 6 month period, the Monitoring Officer will arrange to visit the resident to establish why the resident is failing to use the system correctly. An audit of the waste presented will be offered. This would entail sorting through the contents of the refuse container with the householder present. If recyclable material is found to be present, the resident will be given further advice on how to use the scheme.
 - d. If the resident then fails to use the system correctly, further enforcement action may be taken:
 - i. In accordance with Section 46 of the Environmental Protection Act 1990, the Council may serve a Statutory Notice to the householder to require waste to be placed within the containers specified. The authority is entitled to specify that separate containers are used for waste to be recycled and waste which is not recycled and to determine where such containers must be placed to facilitate the emptying of them.
 - ii. Any person that fails, without reasonable excuse, to comply with the requirements of such a Notice they may be issued a Fixed Penalty Notice of £100 in accordance with Section 46 of the Environmental Protection Act 1990.
 - iii. **However, any such action will only be taken as a last resort.**

- All householders which are assessed as suitable for a wheeled bin for their refuse will be deemed suitable for fortnightly refuse collections. Where a resident presents their waste in sacks despite having a wheeled bin, a fortnightly collection will be maintained.

Enforcement – Contamination of Recyclable Materials

- Recyclable materials for both the food waste collection and recycling collection must be of an appropriate quality (minimal contamination to avoid loads being rejected at the Materials Recycling Facility or composting facility. Information about the correct materials for the food waste caddy and recycling container will be provided/made available to householders.
- Mixed Dry Recycling Contamination
 - Where a small amount of contamination is present in the mixed recycling the collection crew will collect the recyclable, but leave a sticker on the container informing the resident of what the contamination was.
 - Where a significant amount of contamination occurs, the container is not be emptied, and a sticker placed on the bin/bag/box. Householders will be advised to removed the contaminating material from the recycling container prior to the next scheduled collection.
 - Recycling collection crews will be instructed to lift lids of each recyclables bin to check for contamination prior to emptying.
 - Where incidents of contamination are of a persistent nature (e.g. more than two collections), a letter may be sent to the householder and/or they may receive a visit from an Officer to reinforce what the householder should and should not be doing.
- Food Waste Contamination
 - Where any amount of contamination is present in the food waste caddy, the collection crew will not collect the waste and will place a sticker on the bin to advise the resident to remove the contaminant or bag the waste and put it in their refuse bin for collection.
 - Collection crews will be instructed to lift the lids of the external caddy and check for contamination prior to emptying.
 - Where incidences of contamination are of a persistent nature (e.g. more than two collections) a letter may be sent to the householder and/or they may receive a visit from an Officer to reinforce what the householder should and should not be putting in their food waste caddy. The system of enforcement outlined in (9) above may also be used for persistent offenders, **but only once all other options for information and education have been exhausted.**

Residents Survey

In January 2023 the Executive (now Cabinet) considered a report: Medium Term Financial Strategy and Savings Proposals 2023-24

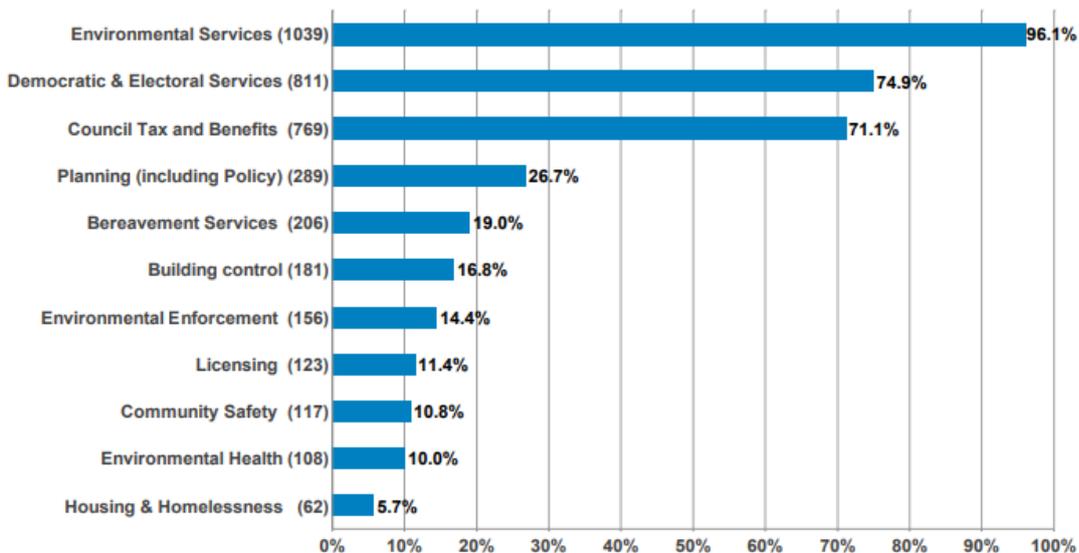
As part of the report, an appendix on the results of Budget Survey 2023 was attached, which included data on the Environmental Services and Environmental Enforcement.

Here are the excerpts considered from the Residents Survey:

Mandatory Services Used

The survey asked respondents to select the services they had used from a list of services that the Council is required to provide by law. A total of 1,082 responses were received.

The most common response was Environmental Services with 1,039 respondents telling us they have used this service, while 156 respondents said they used Environmental Enforcement.



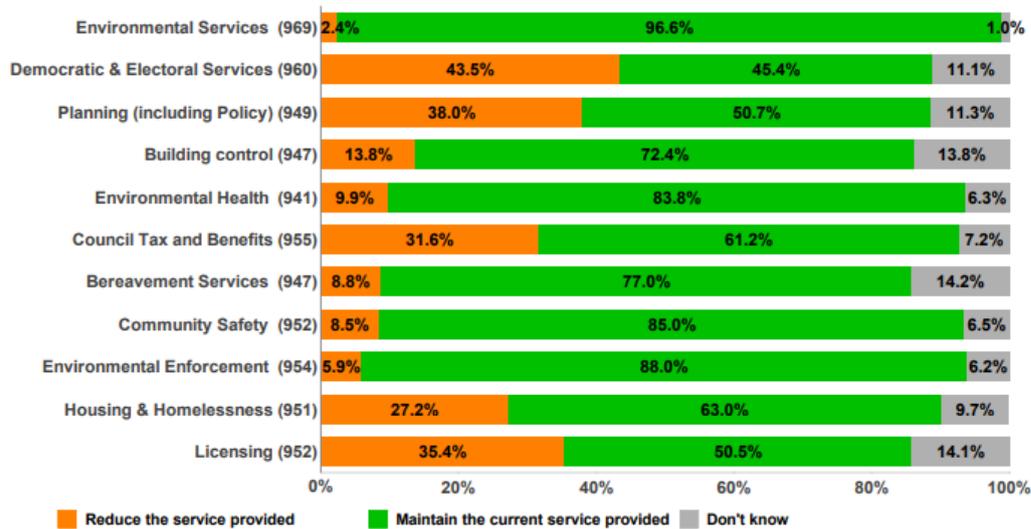
Mandatory Services Spending Approaches

Respondents were provided with the list of mandatory services detailing the current spend for each per council tax band D household.

They were asked to indicate what approach they felt the Council should take in delivering the mandatory services. Three options were provided for respondents to select from:

- Reduce the service provided
- Maintain the current service
- Don't know.

Environmental Services and Environmental Enforcement had the greatest proportions where respondents answered, 'maintain the current service' at 96.6% and 88.0% respectively.



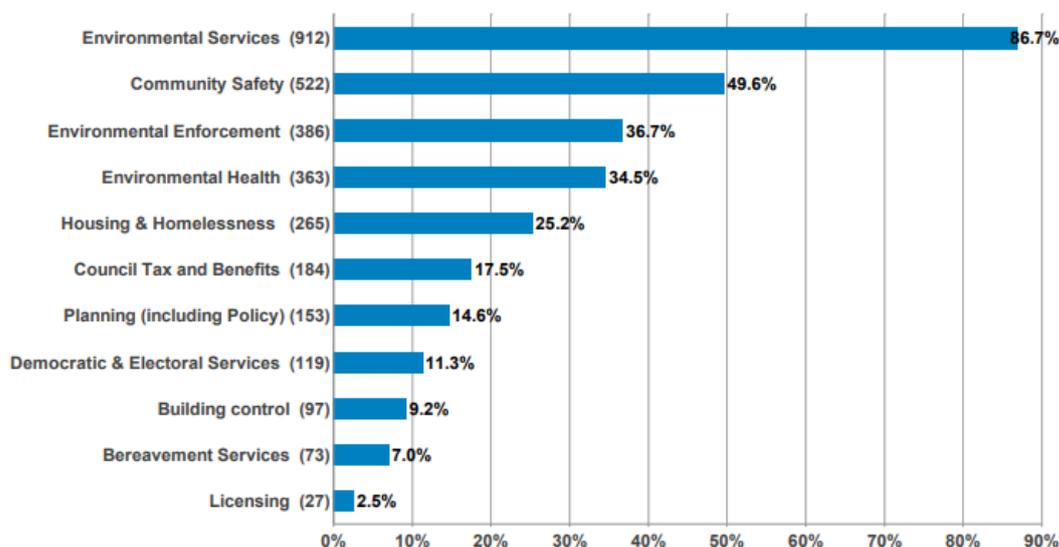
Demographic Differences

Male respondents and respondents under 35 years had greater proportions than their counterparts that said Environmental Enforcement services should be reduced.

Most Important Mandatory Services

The survey asked respondents to select which three Mandatory services provided by the Council were most important to them. There were 912 responses to this question.

The most common response was Environmental Services with 912 respondents selecting this service, while Environmental Enforcement was the third most common response with 386 responses.



Demographic Differences

There were three groups whose third most important Mandatory Service response differed from the overall result. These were 18- to 34-year-olds, minority respondents and those who have lived at their present addresses for less than a year. These three groups put Environmental Health above Environmental Enforcement.



ENVIRONMENTAL HEALTH, WASTE CRIME & COMMUNITY PROTECTION ENFORCEMENT POLICY

1. INTRODUCTION

- 1.1. The Council has a responsibility to enforce specific legislation identified within the Council's Constitution. We also have a responsibility to ensure that we enforce these regulations following the statutory principles of good regulation. Each case is unique and will be considered on its own merits but this document has been prepared to set out our approach, the general principles to be applied and the factors to be taken into consideration when determining the enforcement actions to apply or recommend.
- 1.2. Our primary function is to achieve regulatory compliance in order to protect the public, legitimate business, the environment, consumers and workers.

2. AIMS OF POLICY

- 2.1. To ensure that enforcement decisions are consistent, transparent and proportionate and that people, businesses, organisations and the community are aware of the basis on which enforcement action is taken.
- 2.2. To provide a clear framework for officers undertaking regulatory enforcement work clearly setting out the factors to consider to achieve the principles of good enforcement identified in the policy.

3. SHARED ROLE/PARTNERSHIP

- 3.1 Regulatory enforcement can in many situations overlap with enforcement responsibilities of external agencies or other services within the council. Officers shall consider this wider context of enforcement if there is a shared or complementary role with internal and external partners. The main organisations and services are listed below (this is not an exhaustive list):

Internal partners:

- Waste Services
- Street Scene/Cleansing
- Licensing
- Development Control & Planning Enforcement
- Housing

External partners:

- Trading Standards
- Kent Police
- Social and Mental Health Services
- Maidstone Mediation Service
- Housing Associations
- Voluntary sector organisations
- Environment Agency
- Kent Fire and Rescue

4. GOVERNANCE AND ETHICS

4.1. Equality and Diversity

We will take into account the legal and procedural implications of The Human Rights Act 1998 and European Convention on Human Rights.

We will also have regard to our responsibilities as described in the Maidstone Borough Council Equality Policy. We recognise there is diversity within the community. Care will be taken to ensure enforcement actions are clearly understood by all. For example, we will provide documents in an appropriate language wherever possible. We may also arrange for an interpreter.

Many of the activities which we seek to control happen out of office hours. Within our resource and if considered necessary we will arrange for some enforcement to take place out of usual office hours. This will include monitoring enquiries, etc.

4.2. Legislative and Regulatory Reform

This policy has been prepared with regard to the current principal legislation and statutory guidance including:

The Regulatory Enforcement and Sanctions Act 2008

Enterprise Act 2016

Co-ordination of Regulatory Enforcement Regulations 2017

Legislative and Regulatory Reform Act 2006

**Legislative and Regulatory Reform (Regulatory Functions) Order 2007
as amended in 2009 2010 and 2014**

Regulators Code April 2014

Regard is also given to

The Code for Crown Prosecutors

We are committed to delivering our regulatory activities in a manner that is risk-based, proportionate and consistent and we aim to be transparent and accountable about our regulatory approach and activities, in accordance with the statutory principles of good regulation.

4.2.1 When we take enforcement action we aim to:

- change behaviour
- change attitudes in society to offences which may not be serious in themselves, but which are widespread
- eliminate any financial gain or benefit from non-compliance
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction
- be proportionate to the nature of the offence and the harm caused
- restore the harm caused by regulatory non-compliance, where appropriate
- deter future non-compliance

4.2.2 When considering formal enforcement action, we will, where reasonably practicable, discuss the circumstances with those suspected of a breach of regulation and take any information gained into account when deciding on the appropriate enforcement approach. However in some situations, for example, where immediate action is required to prevent or respond matters of imminent risk to public health or where such an approach will defeat the purpose of the proposed enforcement measure we may not be able to do so.

4.2.3 Where businesses are in a Primary Authority Partnership under The Regulatory Enforcement and Sanctions Act we will, where required, comply with the agreed provisions for enforcement and notify the business's Primary Authority of the enforcement action we propose to take. We may under that Act also refer the matter to Office for Product Safety and Standards if appropriate.

5 METHODS OF ENFORCEMENT

There are a wide range of actions available to the authority and we may respond with one or more of them as is proportionate. There are some cases where we may take enforcement action after compliance has been achieved if it is in the public interest to do so:-

Informal Action

- a) No Action
- b) Informal Action - Advice and Guidance

Formal Action

- c) Formal Written Warning
- d) Statutory Notices, Community Protection Notices, Public Spaces Protection Order
- e) Fixed Penalty Notices
- f) Prosecution
- g) Simple Caution
- h) Seizure and Detention
- i) Works in default
- j) Forfeiture Proceedings
- k) Refusal/Suspension/Revocation of a licence
- l) Injunctive Actions and other Civil Sanctions

We believe in firm but fair enforcement and will follow enforcement proportionate to the offence. Where there is a serious or flagrant breach of legislation, or there is an imminent risk to the health or welfare of people, immediate enforcement action may be considered

5.1 **No Action**

In some circumstances reports are made to the council which fall outside any legislation that they have a responsibility to enforce in which case the complainant will be informed that the council or other agency has no statutory role. Where legislation does apply the only circumstance where no action should be taken is when the breach was a result of a genuine mistake where, once identified, immediate action was taken to comply.

5.2 **Informal Action – Advice and Guidance**

The term informal action means offering advice and guidance to persons, businesses or organisations, this can be verbally or in writing. If it is included in forms or letters it will be clearly identified as such. Situations which may be dealt with through informal action are generally but not exclusively:

- The act or omission is **not serious enough** to warrant formal action or,
- From the past history it can be reasonably expected that informal action will achieve compliance or,
- Where we seek to educate and inform of 'good practice'

5.3 **Formal Action**

As an authority we can take action through more formal means to achieve compliance or protect the public, this includes the following options.

5.3.1 **Formal Written Warning**

A formal written warning is used where the act or omission is **serious enough** to warrant formal written warning and must contain the following:

- All the information necessary to understand what is required and why it is necessary,
- The legislation contravened and measures which enable compliance to be achieved,
- Clearly differentiate between legal requirements and recommendations of good practice, and
- A reasonable date for compliance

Where the recipient of the letter disagrees with any requirement and there is a "right of appeal", where identified in legislation, this should be made to the relevant Team Leader/Manager.

5.3.2 Statutory Notices

Notices may be served in circumstances where there is a **serious contravention, imminent risk to safety or health, or continuing non-compliance**. Notices include, but are not limited to:

Hygiene Emergency Prohibition Notices (food) or **Prohibition Notices** (health and safety) which require contravening activities to cease immediately, and may close all or part of a premise.

Hygiene Emergency Prohibition Notices (food) must be confirmed by a Magistrates Court within 3 days of service.

Hygiene Improvement Notices (food) or **Improvement Notices** (health and safety) may be served to correct specific contraventions of the legislation, and specify a compliance date. In both cases, the Notice must state what provision is being contravened, and what is necessary in order to comply with it.

Environmental Protection Act notices may be served for contraventions of appropriate legislation e.g. for the existence of a statutory nuisance. Notices shall be served to require persons, businesses or organisations to cease contravening activities, or improve conditions to comply with legislation within a reasonable time.

Community Protection Notices (CPNs) may be issued under the Anti-social Behaviour, Crime and Policing Act 2014 will always be preceded by a community protection warning. The scope of use for CPNs is extremely broad, for example:

- Anti-social behaviour
- Litter and refuse accumulations
- Dog control including repeat strays
- Noise including barking dogs
- Bonfires and other nuisances
- Public Health issues including vermin

Where the legislation contains an appeal process no further action will be taken until the appeal period is completed. Officers will revisit to confirm the notice has been complied with. Failure to comply with a Notice is an offence in itself and may result in prosecution.

5.3.3 Fixed Penalties Notices

Fixed Penalty Notices (FPNs) can be issued under specified legislation and enables people to discharge their liability for prosecution by accepting and paying a FPN; the amount to pay varies according to the specified legislation and can include reduced amounts for early payment where adopted or required.

5.3.3.1 If a FPN is paid in full within the prescribed period no further action will be taken by the Borough Council. If a FPN is not paid in full within the prescribed period legal proceedings will be considered.

5.3.3.2 We cannot accept payments in instalments. If paying the full amount of a FPN is a problem we can offer a 30 day extension of time to pay, from the date of the original offence. If there is a particular case of hardship, the recipient can request a longer extension. This must be made in writing and must be supported by evidence of hardship, such as income details.

5.3.3.3 There are no grounds of appeal against a FPN. However, representations may be made by the person upon whom a FPN is served. **This is not an appeal system** but an opportunity for information to be presented to the authority for consideration about the FPN. Representations must be made in writing before the payment period expires.

5.3.4 **Prosecution**

The authority to prosecute will be given in accordance with the council's constitution. The decision to prosecute will be made by the Head of Mid Kent Legal Services having regard to the authorisation from the relevant authorising officer and the Full Code Test as set out in the code for Crown Prosecutors which has two stages which must be satisfied:

1. The Evidential Stage – is there sufficient evidence to provide a realistic prospect of conviction against the offender
2. The 'Public Interest' Stage – is it in the public interest for the case to be brought to court?

This can be found at:

http://www.cps.gov.uk/publications/code_for_crown_prosecutors

5.3.4.1 The decision to recommend the institution of proceedings will in general be in respect of those persons or organisations that:

- visually or materially damage the environment;
- blatantly disregard the law;
- fail to achieve basic legal standards, (often following previous contact with the Services); or
- who put the public at risk

5.3.4.2 The investigating officer, when deciding on the appropriateness for legal proceedings (prosecution) shall also take the following criteria into account:

- **Community Benefit**

Legal proceedings may be taken on the first occasion of certain events because of the seriousness of the case and/or Community benefit from a prosecution and its likely deterrent effect.

- **Blatant Breach of Law**

Where there is a breach of law is such that public health, safety or well being, animal health or welfare or the local environment is or has been put at risk, it would be appropriate to take legal proceedings.

- **Failure to comply with a Statutory Notice**

Legal proceedings, seizure of equipment or works in default will usually be appropriate, in cases of failure to comply with improvement or prohibition notices or other notices requiring or prohibiting action.

- **Failure to comply with Lawful Requirements**

If a person or business fails to comply with lawful requirements, having been advised on previous occasions, legal proceedings will usually be taken.

- **History of Non-compliance**

If there is a history of non-compliance with legislation by a person or business then legal proceedings will usually be taken.

- **Obstruction**

Legal proceedings will be taken in cases of deliberate obstruction of an officer.

5.3.5 **Simple Cautions**

The decision to offer a simple caution will be made by the appropriate Head of Service or Director having received a recommendation from their Service Manager in consultation with the Head of Legal Services.

5.3.5.1 We may use a simple caution as a proportionate alternative to prosecution and in accordance with Ministry of Justice guidance 'Simple Cautions for Adult Offenders' (dated 13.4.15).

5.3.5.2 A simple caution will only be considered:

- Where we are satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the offender,
- The offender admits the offence,
- The offender consents to being cautioned, and
- It is in the public interest to offer a simple caution in respect of the offence rather than to prosecute

5.3.5.3 Where a simple caution is offered and declined we are likely to consider prosecution.

5.3.6 **Seizure and Detention**

Certain legislation enables authorised officers to seize goods or equipment. This includes unsafe food or dangerous pieces of work equipment, noise generating equipment or vehicles associated with certain waste crime etc. Receipts will be issued to the person from whom the goods are seized. Where the law requires, seized goods will be taken before a Magistrate e.g. unfit food.

5.3.7 **Works in Default**

Under certain legislation a council can undertake work in default and recover the cost from the occupier or owner. This may be appropriate for example, when:

- It is necessary to carry out work in the public interest and/or the costs are not prohibitive,
- There is a failure to carry out work covered by a statutory notice,
- Immediate action is required, or
- It is unlikely that work will be carried out unless done in default

5.3.8 **Forfeiture Proceedings**

In certain situations it may be appropriate for the council to seek forfeiture of property to address a contravention. This would only occur where the legislation gives the Council the power to do so and would be through an application to the Court.

5.3.9 **Refusal / Suspension / Revocation of Licence / Approval / Authorisation**

Licences, Approvals and Authorisations are issued under specific legislation and will only be refused, suspended or revoked following appropriate procedures and consideration of all relevant evidence.

Certain food business manufacturing or handling high risk food products require approval to allow their foods to be sold. For the approval to be refused, suspended or revoked, one or more of the following criteria must be met:

- Failure to comply with legal requirements
- Have ignored written warnings or statutory notices
- Are producing unsafe food products likely to harm human health
- Obstructed an officer undertaking their duties

5.3.10 **Injunctions and Civil Sanctions**

An injunction can be used to deal with a wide range of behaviours, many of which can cause serious harm to victims and communities. If an person 'engaged or threatens to engage in anti-social behaviour' an application may be considered. This could include but is not limited to irresponsible dog ownership or noisy/abusive behaviour towards neighbours.

Many of the civil sanctions available to the authority are already identified in sections 5.3 other appropriate options may be considered such as restoration or stop notices.

5.3.11 **Other Enforcement Action**

the diverse and evolving nature of the legislation used across the services named in this policy means that other enforcement tools can be appropriate, but it is not practical to list them all here. Where other enforcement action is used its use will be proportionate and only by officers that are trained and authorised in writing to do so in accordance to section 6 below.

6 AUTHORISATION

- 6.1 Officers carrying out enforcement work will be suitably trained, experienced and authorised to do so in writing.
- 6.2 Officers authorised to sign and serve various documents will have the level of competence and ability required. Officers authorised will carry identification and will have evidence of their authorisation.

7 DECIDING ON ENFORCEMENT ACTION TO BE TAKEN

- 7.1 For infringements resulting in 'no action', 'advice and guidance' and 'formal written warning' the case officer will decide upon the appropriate course of action.
- 7.2 The case officer's decision will be based upon professional judgement, legal guidelines, statutory codes of practice, guidance. Advice and confirmation can be obtained from colleagues and the Team Leader.
- 7.3 For infringements resulting in enforcement methods not listed at 7.1 the case officer will consult with the Team Leader to decide the appropriate course of action. This will include service of Hygiene Emergency Prohibition Notices (food), Prohibition Notices (health and safety), refusal / suspension / revocation of licences / approvals / authorisations. Where the Team Leader is unavailable, the Environmental Health Manager or other senior manager will be consulted.
- 7.4 In the case of service of Hygiene Emergency Prohibition Notices (food) and Prohibition Notice (health and safety), agreement of the Food and Safety Team Leader, the Environmental Health Manager or other senior manager may not be possible where there is an imminent and serious risk to safety or health. Officers will inform them as soon as practicable.
- 7.5 In exceptional circumstances where officers, on consideration of the evidence and the risk to health or the environment, may depart from the policy.
- 7.6 In the case of a work related death, the case officer must inform and liaise with Kent Police in accordance with the protocol 'Work Related Deaths: A protocol for liaison'. This may result in a joint investigation. Where Kent Police/Crown Prosecution Service decides not to pursue a manslaughter case, consideration will be given to a health and safety prosecution, in-line with this policy.

8 APPLICATION OF THIS POLICY

- 8.1 The principles contained within the enforcement policy shall be applied to the enforcement of legislation within the remit of the Community Protection and Waste Crime teams and Mid Kent Environmental Health Service.
- 8.2 The preparation of this policy and any supplementary supporting documents will involve, where appropriate, consultation of affected parties.

9 APPROVAL

- 9.1 The enforcement policy will be approved by the Communities, Housing and Environmental Committee.

10 ACCESS TO THE POLICY

- 10.1 The policy is available on the Maidstone Borough Council website and at the Maidstone Borough Council offices. The case officer will be able to provide a copy of this policy given suitable notice. On request and where practicable this policy may be made available on tape, in Braille, large type, or in a language other than English.

11 REVIEW OF POLICY

- 11.1 The Policy will be kept under review to take account of changes in legislation and amendments found necessary as a result of internal monitoring.

12 COMPLAINTS

- 12.1 If a person feels we have not followed the enforcement policy or has a complaint about the application of the policy complaints may be made through the Corporate Complaints process accessed from the website maidstone.gov.uk.



WASTE CRIME FIXED PENALTY NOTICE (FPN) POLICY

1. INTRODUCTION

1.1 The Council enforces against waste crime offences as set out in the Environmental Protection Act 1990. These include:

Unauthorised depositing of waste – Contrary to Section 33 Environmental Protection Act 1990

Duty of Care – contrary to section 34 Environmental Protection Act 1990

Offence of leaving litter – contrary to section 87 Environmental Protection Act 1990

1.2 There are a wide range of actions available to the authority to enforce against such offences. These include informal advice and guidance as well as formal warnings, Notices and prosecution.

1.3 This document sets out the policy for issuing Fixed Penalty Notices (FPNs) for waste crime offences, the charges and early payment discounts. It also outlines the policy for when prosecution will be pursued rather than issuing an FPN for the offence.

2. AIM OF POLICY

2.1 To ensure that enforcement decisions are consistent, transparent and proportionate and that people, businesses, organisations and the community are aware of the basis on which enforcement action is taken.

2.2 This policy provides the criteria for issuing each Fixed Penalty Notice which will be applied by Officers when investigating waste crime offences.

3. DECISION MAKING

3.1 The decision on whether to issue an FPN, and the level of FPN, will be taken by the Waste Crime Manager, Waste Crime Officer or Public Realm Officer in consultation with this policy, as authorised by the Head of Environment and Public Realm.

3.2 Offence of leaving litter

3.2.1 This is defined within Section 87 of the Environmental Protection Act 1990 as

(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 in the area of a principal litter authority which is open to the air, subject to subsection (3) below.

(3)This section does not apply to a place which is "open to the air" for the purposes of this Part by virtue of section 86(13) above if the public does not have access to it, with or without payment.

- 3.2.2 Where an offence of littering has occurred, as witnessed by an Authorised Officer of the Council or where video evidence of the offence is provided to identify the person responsible, a FPN will be considered in the first instance.
- 3.2.3 Two levels of Littering offence are considered by the Council. These are described below:

	Criteria	Charge	Early payment
Level 1	<ul style="list-style-type: none"> - Single item of litter; AND - <u>No</u> criteria from Level 2 met 	£250	£200
Level 2	<p>This action applies to any <u>one</u> of these:</p> <ul style="list-style-type: none"> - Repeated offence - Multiple items - Littering from vehicles - High speed roads (40mph+) - Hazardous waste - Littering in watercourse 	£500	n/a

- 3.2.4 Level 2 Offences are charged at a higher rate due to the cost and resource requirements to carry out cleansing. These will often require traffic management and additional training to carry out the work due to the health and safety risks associated with working on the Highway, around ditches or near water.

3.3 Fly tipping

- 3.3.1 This is defined within Section 33 of the Environmental Protection Act 1990

Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.

a person shall not —

(a) deposit controlled waste, or knowingly cause or knowingly permit controlled waste [F2or extractive waste] to be deposited in or on any land unless [F3an environmental permit] authorising the deposit is in force and the deposit is in accordance with the licence;

- 3.3.2 Evidence from CCTV, witness statements or information within the waste will be used to identify the person responsible for depositing the waste illegally. Where there is evidence found in the waste, this will be used to identify the owner of the waste and they may be served a Section 108 notice from the Environmental Protection Act requiring them to provide details of the person who deposited their waste.
- 3.3.3 Where there is sufficient evidence to identify the person responsible, the Authorised Officer will determine, in consultation with this policy what form of enforcement action will be taken.

	Criteria	Charge	Early Payment
Level 1 FPN	<ul style="list-style-type: none"> - Single item or black bag - <u>No</u> criteria from Level 2 or Prosecution 	£600	£520
Level 2 FPN	<ul style="list-style-type: none"> - Multiple items 	£1000	n/a

	<ul style="list-style-type: none"> - Multiple locations - Specialist equipment required to clear - Hazardous waste - <u>No</u> criteria from Prosecution 		
Prosecution	<p>This action applies to any one of these:</p> <ul style="list-style-type: none"> - Large scale fly tipping blocking highway - Mixed hazardous waste including asbestos - Commercial waste carrier operating illegally 	n/a	n/a

3.4 Duty of Care (Household)

3.4.1 This is defined in Section 34 of the Environmental Protection Act 1990.

It shall be the duty of the occupier of any domestic property in England to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes

3.4.2 Residents are required to check the documentation of any person they contract to dispose of their waste. This includes checking for a waste carrier's licence and requesting a Waste Transfer Note. Where a resident has failed to take these measures and their waste is found disposed of illegally, a Duty of Care FPN will be issued by an Authorised Officer.

3.4.3 Duty of Care (household waste) FPN is set at £500. There is an early payment discount for this, reducing it to £400.

3.5 Graffiti

3.5.1 Graffiti is considered to be writing or drawings scribbled, scratched, or sprayed illicitly on a wall or other surface in a public place.

Section 43 of the Antisocial Behaviour Act 2003 states

Where an authorised officer of a local authority has reason to believe that a person has committed a relevant offence in the area of that authority, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a penalty in accordance with the notice.

3.5.1 Graffiti FPN is set at £250. There is no early payment discount for this.

3.6 Fly posting

3.6.1 Fly-posting is the display of advertising material on buildings and street furniture without consent of the owner.

3.6.2 Fly posting FPN is set at £80. There is no early payment discount for this.

3.7 Abandonment of a Vehicle

3.7.1 The Refuse Disposal (Amenity) Act 1978 states

Where it appears to a local authority that a motor vehicle in their area is abandoned without lawful authority on any land in the open air or on any other land forming part of a highway, it shall be the duty of the authority, subject to the following provisions of this section, to remove the vehicle.

3.7.2 The Clean Neighbourhoods and Environment Act 2005 enables local authorities to issue FPNs for abandoned vehicles. This is set at £100 with no early payment discount.

3.7.3 The vehicle can be deemed to be abandoned if it meets any one of the following criteria:

- it has no keeper on DVLA's database and is untaxed
- it's stationary for a significant amount of time
- it's significantly damaged, run down or unroadworthy, for example has flat tyres, missing wheels or broken windows
- it's burned out
- a number plate is missing

An Authorised Officer will investigate each report and determine whether it meets the criteria of being abandoned and will issue a 15-day Notice (or Notice of Immediate Removal if dangerous due to its condition)

3.8 **Duty of Care (Commercial)**

3.8.1 This is defined in Section 34 of the Environmental Protection Act 1990.

it shall be the duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, [as a dealer or broker], has control of such waste, to take all such measures applicable to him in that capacity as are reasonable in the circumstances—

(a) to prevent any contravention by any other person of section 33 above;

[to prevent any contravention by any other person of regulation 12 of [the Environmental Permitting Regulations] or of a condition of an environmental permit;]]

(b) to prevent the escape of the waste from his control or that of any other person; and

(c) on the transfer of the waste, to secure—

(i) that the transfer is only to an authorised person or to a person for authorised transport purposes; and

(ii) that there is transferred such a written description of the waste as will enable other persons to avoid a contravention of that section [or regulation 12 of [the Environmental Permitting Regulations], or a contravention of a condition of an environmental permit,] and to comply with the duty under this subsection as respects the escape of waste.

3.8.2 Businesses are required to ensure that their waste is stored correctly and is only given to an authorised person (a waste disposal company that can legally take it.)

- 3.8.3 Where a business is unable to provide copies of their Waste Transfer Notes and prove that their waste is disposed of responsibly through a permitted disposal site, a Duty of Care (Commercial) FPN will be issued.
- 3.8.4 Duty of Care (household waste) FPN is set at £300, the maximum level permitted. There is no early payment discount for this.

4. CHARGES

4.1 The full list of FPN charges is as follows:

	Charge	Early payment
Littering (Level 1)	£250	£200
Littering (Level 2)	£500	n/a
Fly tipping (Level 1)	£600	£520
Fly tipping (Level 2)	£1,000	n/a
Graffiti	£250	n/a
Fly posting	£80	n/a
Duty of Care (household)	£500	£400
Duty of Care (commercial)	£300	n/a
Community Protection Notice	£100	n/a
Abandonment of Vehicle	£100	n/a

5. EARLY PAYMENT DISCOUNT

5.1 The Council offers a discounted rate for the early payment of Level 1 Littering and Fly tipping FPNs. Payment must be received within 14 days of the date on the issued FPN for the discount to be applied.

6. PAYMENT

6.1 Payment of an FPN must be made in full. The Council cannot accept payment in instalments. If paying the full amount of a FPN is a problem we can offer a 30-day extension of time to pay, from the date of the original offence. If there is a particular case of hardship, the recipient can request a longer extension. This must be made in writing and must be supported by evidence of hardship, such as income details.

6.2 Payment details are provided on the FPN, and more information can be found at www.maidstone.gov.uk

7. APPEAL

7.1 There are no grounds of appeal against an FPN. However, representations may be made by the person upon whom a FPN is served. This is not an appeal system but an opportunity for information to be presented to the authority for consideration about the FPN. Representations must be made in writing before the payment period expires, information for which will be included on the FPN.

<p><u>Proposer Name</u></p> <p>Overview and Scrutiny Committee</p> <p>(original proposal submitted by Councillor English, and then reviewed during the OSC Member Workshop)</p>
<p><u>Proposed Topic (What?)</u></p> <p>Environmental and Waste Crime Enforcement</p>
<p><u>Description and Reason for Review (Why?)</u></p> <p>The Committee previously included a review of enforcement generally in its 2022/23 Work programme.</p> <p>In reviewing the topic for inclusion within its 2023/24 work programme, the Committee (informally) expressed concern on some of the decisions being made in relation to Environmental and Waste Services and the impact. The relationship between Medway and Kent County Councils and the proposed closure of the Maidstone Recycling Centre in Tovil was also mentioned.</p> <p>Enforcement is one part of the wider Environmental and Waste Crime service areas, with significant Member interest in the topic.</p>
<p><u>Link to Priorities:</u></p> <p>Strategic Priorities: Safe Clean and Green A Thriving Place</p>
<p><u>Desired Outcome(s) (Outcome)</u></p> <p>Identification of required actions and/or policies to improve the Council's Environmental and Waste Crime enforcement services.</p>
<p><u>Enforcement Review - Suggested Approach (How, When, Who?)</u></p> <p>Prior to the first meeting, produce an evidence pack containing:</p> <ul style="list-style-type: none"> • Available information, such as existing policies, statistics and reports relating to Environmental and Waste Crime Enforcement. • Any other information specifically requested by the committee that can be readily provided.

Meetings One & Two (Evidence Collection)

Evidence collection (written/verbal) from Council Officers and Members, such as:

- Director of Regeneration and Place
- Head of Environmental Services and Public Realm
- Waste Crime Manager
- Mid Kent Environmental Health (Shared Service)
- Community and Strategic Partnerships Manager

- Cabinet for Environmental Services
- Cabinet Member for Planning, Infrastructure and Economic Development

Questions (written/verbal) could include:

- What aspects of environmental and waste crime enforcement are carried out well?
- What are the main areas for improvement?
- How could these be improved?
- Is there an additional resource need or are there other changes that could be made to benefit the service's efficiency?
- What would be required to make this improvement and support it in the long-term?

Meeting Three/Four (Evidence Collection and Summary)

Evidence (written/verbal) collection to understand how enforcement works in other Local Authorities.

Committee to produce its recommendations. Report presented at next meeting.

Review Timescale (When)

Between five to six meetings (depending on method of review)

Work Programme Impact: Medium

Link to CfPS effective scrutiny principles

The following CfPS effective scrutiny principles would be met through conducting the review:

- Provides a constructive 'critical friend' challenge
- Amplifies public voices and concerns
- Is Independently led by Councillors
- Drives Improvement in Public Services