



Natural and Built Environment

Clean Neighbourhoods and Environment Enforcement Strategy

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EXECUTIVE SUMMARY

Left unchecked, environmental crimes such as littering, graffiti, fly-posting, nuisance vehicles and fly-tipping, can quickly blight local neighbourhoods and contribute to an environment where other crime and disorder can proliferate.

The Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) has brought together a wide range of powers to enable local authorities to tackle crimes that impact on the quality of the local environment. Guidance published by the Department for Environment, Food and Rural Affairs, “Local environmental enforcement – Guidance on the use of fixed penalty notices”, 2007 recommends that each local authority should develop a strategy to provide a framework for its local environmental enforcement work and to set local fixed penalties for a range of environmental offences. This strategy has been produced in accordance with the guidance.

This strategy recognises the impact that local environmental quality has for local communities in the context of national and local policies, including neighbourhood regeneration and management, public health and notably crime and anti-social behaviour.

The strategy builds on the perceptions of local residents and businesses and contributes to the delivery of key priorities and objectives of the Council’s Corporate Plan, the Babergh East and Western Suffolk Local Strategic Partnerships and the Babergh Crime and Disorder Reduction Partnership.

Delivery of the strategy is underpinned by two key objectives to integrate both behavioural change and intervention, reflecting approaches within the Corporate Plan:

- Changing attitudes and behaviour by engaging the public and promoting social and individual responsibility;
- Implementing a firm, but fair enforcement policy utilising local intelligence. As a local authority, the Council does of course have a far wider remit and in acting for the community there is a balance to be struck when considering its use of the new CNEA 2005 powers. This is reflected in the Enforcement Strategy.

CHAPTER 1

1. Introduction

1.1 Context and Purpose of the Strategy

The condition of the neighbourhood surrounding our homes and businesses is a key element influencing how we feel about living in the district. It demonstrates pride and respect and has direct links to the wider quality of life issues that are fundamental to promoting active citizenship and building strong, inclusive communities such as our health, safety and well being and a vibrant local economy.

The effects of anti-social behaviour are most visible when the results of that behaviour ruin public places such as town centres, parks, playgrounds and public highways. It can also degrade local neighbourhoods by allowing gardens, homes and streets to be defaced by litter, rubbish and abandoned cars.

Environmental crime includes littering, fly-tipping, nuisance vehicles, graffiti, fly-posting, dog fouling and abandoned shopping trolleys. Its presence can encourage a spiral of decline, which can undermine community cohesion and the efforts of public agencies. Tackling environmental crime goes beyond keeping streets and estates clean, it is a vital part of building community confidence and improving the “liveability” of an area.

In the past the Council has promoted ad hoc educational initiatives and has traditionally adopted a reactive stance in tackling environmental crime. The purpose of this strategy is to put in place a systematic education and enforcement regime focused on changing people’s attitudes and behaviour towards the environment. This in turn depends on visible, effective deterrents. Where there are problems they should be addressed coherently to try to tackle the causes as well as the symptoms. This is the main focus of the strategy – establishing the balance between changing behaviour, promoting responsibility and enforcing strongly and consistently when required.

1.2 National Context

Babergh District Council is responsible for the enforcement of a wide range of legislation and already has an enforcement policy that sets out desired standards of conduct and Enforcement Concordat Principles.

The Clean Neighbourhoods and Environment Act, 2005 (CNEA 2005) forms part of the Government’s Living Places Agenda launched in 2002. The Government has established an initiative entitled “Cleaner, Safer, Greener Communities”. One of the aims of this initiative is to improve the quality of the local environment as this affects and reflects the well being of the people living there. Whether it’s a town centre, local park or street, it is important that these areas are attractive and safe places to be.

The relationship between the state of the local environment, anti-social behaviour and the fear of crime is now well known, with “low level” environmental crime often being an indicator of a wider anti-social behaviour problem. Incidents of environmental crime are formally recognised within the Home Office’s categorisation of anti-social behaviour and the Crime and Disorder Act 1998 (as amended by the Police Reform Act 2002) require Crime and Disorder Partnerships to include in their reviews, anti-social and other behaviour adversely affecting the local environment.

The Safer Neighbourhoods Policing Programme recognises the important role the Police can play in improving local environmental quality in partnership with local authorities and other agencies. Local environmental degradation is often the result of criminal acts or anti-social behaviour and the Government is seeking to address environmental crime through its “Together We Can” and “Respect” Action Plans by promoting good behaviour and individual and community responsibility.

The Government has legislated to provide local authorities and other bodies with stronger powers to address environmental crime, including the CNEA 2005, the Anti-Social Behaviour Act 2003 and provisions of the Police and Justice Act 2006. The CNEA 2005 is seen as a cornerstone in combating local environmental crime by providing powers to issue a wide range of Fixed Penalty Notices (FPN’s) and other enforcement measures, thereby strengthening the view that local environmental degradation is often criminal in nature.

Local authorities are under greater scrutiny to improve both their performance and commitment to prioritising and managing local environmental standards. The Audit Commission’s Key Lines of Enquiry for CPA (“the Harder Test”) are used to assess a local authority’s performance. The assessment recognises the link between the local environment and other shared priority areas by evaluating how a council has performed in bringing together partnerships to demonstrate outcomes for all in the community. Specific examples include tackling graffiti as a contributor to the reduction of fear of crime and targeting environmental improvements in the most deprived neighbourhoods as part of healthier communities.

1.3 Local Context

The Council’s vision for Babergh is to create “A district where strong and inclusive communities are built on active citizenship and where all citizens have the opportunity to develop to their full potential”. In pursuit of this vision the Council sets its priorities in its Corporate Plan. This strategy contributes to the following specific priorities:

- To maintain a safe, clean and sustainable environment;
- To promote healthy living and reduce health inequalities;
- To raise individual and community ambitions and encourage active citizenship.

The Council's Corporate Plan sets down key areas of environmental strategy to deliver these priorities through specific policies and services. The Corporate Plan also shows how policies are delivered through partnerships, including the Babergh Crime and Disorder Reduction Partnership and the Babergh East and Western Suffolk Local Strategic Partnerships. These multi-agency partnerships are designed to improve communication and co-ordination of plans and strategies across agencies, with the overall aim of improving the quality of life and governance of Babergh. The reduction of crime, including environmental crime and anti-social behaviour, is a key theme of these strategic partnerships. This strategy has been written to complement the other strategies in place across the county relating to environmental crime and anti-social behaviour, to ensure a "joined up" strategic approach to inter-agency working is adopted. The procedures set out in this strategy seek to use the new powers introduced by the CNEA 2005 to help achieve these broad objectives.

1.4 Enforcement Strategy

Key to the success of any enforcement is a policy which is widely promoted within the community and which is properly resourced to ensure that it is delivered. The Council has adopted the Government's Enforcement Concordat which states that good enforcement practice should set clear standards, be carried out in an open, helpful manner and have a proportionate and consistent approach, together with a clear complaints service. The Council has translated these principles into an overarching, Corporate "Common Enforcement Policy" for all its enforcement functions.

It follows that an Enforcement Strategy should be adopted by the Council for its work under the CNEA 2005, which can be used by authorised officers of the Council concerned with environmental crime. It is our policy to ensure that enforcement of statutory requirements under this strategy is undertaken in accordance with enforcement techniques which are:

- Consistent with current statutory and professional guidance, including the Enforcement Concordat, the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Regulation of Investigatory Powers Act 2000, the Race Relations Acts and the Human Rights Act 1998;
- Fair;
- Open;
- Sensitive;
- In accordance with the principles of common sense;
- Related to and proportionate with the risks posed by non-compliance;
- Consistent both within the area of the Council and adjoining authorities.

To that end, this strategy has been prepared having regard to guidance published by the Department for Environment, Food and Rural Affairs (DEFRA), "Local environmental enforcement – Guidance on the use of fixed penalty notices", 2007. The guide recommends that each local authority should develop an enforcement strategy to provide a framework for its local environmental enforcement work and to set local fixed penalties for a range of environmental offences.

CHAPTER 2

2. Aims and Objectives

The aim of this strategy is to improve Babergh's local environmental quality by reducing environmental crime across the district.

To meet this aim the Council has the following objectives:

- Utilise the powers introduced by the CNEA 2005 to target those who are inclined to flout the law in respect of the environmental crimes specified in Chapter 3 in order to draw them into compliance and stop their criminal activity;
- Implement a firm, but fair enforcement policy by ensuring that enforcement action is undertaken in a reasonable, equitable, proportionate and consistent manner;
- Change attitudes and behaviour and promote social and individual responsibility by:
 - (i) Engaging the public to raise awareness of good waste management, litter control, abandoned and nuisance vehicles, dog control, unlawful advertisements and graffiti, night time noise and other local environmental quality issues;
 - (ii) Educating residents, businesses and visitors about what constitutes a criminal offence and their legal duties and responsibilities in terms of good waste management, litter control, abandoned and nuisance vehicles, dog control, unlawful advertisements and graffiti, night time noise and other local environmental quality issues;
- Monitor our activities and prepare regular returns on progress to Central Government;
- Review our strategy on a regular basis.

2.1 Priorities

All of the issues highlighted in this strategy are of importance to maintaining a safe and clean Babergh. However, we will prioritise work on certain issues in order to approach enforcement work in a structured way, targeting the predominant issues affecting Babergh's environment. Our main priorities are:

- Fly-tipping of waste on public and private land;
- Litter in high street areas and other highways;
- Dog fouling;
- Graffiti on public transport infrastructure and in footpath areas;
- Fly-posting and unlawful advertisements.

Enforcement work can, and in some cases will, extend beyond public land onto adjacent, private land when necessary.

2.2 Prioritising Implementation

A key feature of the CNEA 2005 is the broadening of offences for which FPN's may be issued.

Experience elsewhere has shown that the public generally welcomes the use of FPN's, provided that they are issued sensibly, enforced even-handedly and are a response to genuine problems. As FPN's for environmental crime have not been used in Babergh before, the Council is seeking feedback from residents to ensure the right powers are introduced and that resources are in place to manage and deliver effective enforcement action. The Council hopes that the consultation on this draft strategy will help inform where the use of FPN's should fit into its wider enforcement policy. Campaigns and publicity will also be used to inform the community and businesses as the new powers are introduced.

The Council has limited resources with which to implement the full suite of offences for which FPN's are available. Also it may not be appropriate to implement some of the powers at the present time, either because there are other adequate procedures and legislation available (e.g. dealing with noise from pubs and clubs), or because certain orders have to be made before the CNEA 2005 powers can be used (e.g. Dog Control Orders). Adoption and implementation of appropriate powers for which FPN's are available will be phased in. The Council will implement those available powers necessary to meet its priorities.

2.3 Implementation Timetable

- There will be a 2-month lead-in period from 1 November 2008 before FPN's are issued. The Council will develop a communication strategy designed to raise awareness of the strategy, but also to keep public expectation realistic.
- The CNEA 2005 powers will be implemented immediately for offences relating to: litter; fly-tipping; failure to produce waste transportation documents; waste receptacles; abandoning a vehicle; nuisance vehicles; unlawful advertisements, fly-posting and graffiti; and night time noise from dwellings.
- With regard to issuing FPN's to juveniles, the Council has undertaken to participate in a working group with the other Suffolk local authorities and the Youth Offending Service, with the aim of devising a countywide agreement as soon as possible. Babergh District Council will not issue FPN's to juveniles until such time as an agreement is in place (refer to Paragraph 5.5.2).
- The CNEA 2005 empowers the Council to designate areas of their own land or highways, in which free literature is permitted only with their consent. The Council has decided that it will not implement these powers at present, but will keep the matter under review. Further details are given in Paragraph 3.3.

- The powers to deal with fly-tipping incidents are shared between local authorities and the Environment Agency. The national Fly-tipping Protocol (agreed between the Environment Agency and Local Government Association) gives guidance on which authority should take the lead in dealing with fly-tips dependant on their size, composition and location. The Council has worked in partnership with the other Suffolk district and borough councils and the Environment Agency to produce a local Fly-Tipping Protocol for Suffolk. This local agreement sets out how the respective bodies will co-operate to adopt the principles of shared working and specifies local arrangements for co-ordinating their respective activities to deal with fly-tipping.
- The Council will continue its programme of inspection of businesses to ensure that producers of waste are applying their “duty of care” to make sure waste is passed on to authorised persons and to investigate illegal waste disposal. Further details are given in Paragraph 3.7.
- The Council will review its Refuse and Recycling Policy as soon as possible to ensure it is consistent with this strategy, particularly with respect to enforcement issues relating to the collection of “side-waste”, contamination of recyclable material bins with inappropriate waste and overloading of bins. Further details are given in Paragraph 3.8.
- The Council’s “Policy Statement on Abandoned and Nuisance Vehicles”, March 2006, will be amended as soon as practicable to address: (i) the changes made by the CNEA 2005 with respect to the issuing of FPN’s for relevant offences and; (ii) to reflect UK’s arrangements, implemented under the EU End of Life Vehicle Directive, for the free disposal of vehicles. Further details are given in Paragraph 3.9.
- A Dog Control Order will be made within 12 months from the adoption of this strategy making it an offence to fail to remove dog faeces from any land in the Babergh district, which is open to the air and to which the public are entitled or permitted to have access (with or without payment). Further details are given in Paragraph 3.11.
- The Council will seek to work in partnership with Suffolk County Council Highways to develop joint protocols for regulating the use of temporary signs for commercial events such as local beer festivals, farmers markets and other annual events and for regulating the use of A-boards in town and village centres. Further details are given in Paragraph 3.12.
- In the 12 months following the adoption of this strategy, the Council will seek to develop a programme of partnership working with businesses, Service Providers, Parish/Town Councils, schools and other public authorities to secure a reduction in the level of defacement by graffiti in the district. This may include: schemes to identify offenders by their “tags”; issuing graffiti removal kits to community wardens and Parish/Town Councils; developing schemes with the Suffolk Probation Service for offenders to carry out community restoration; and establishing contacts and agreements with Service Providers such as telecommunications companies to secure the removal of graffiti from their street installations. Further details are given in Paragraph 3.12.

- The Council can choose to adopt powers under the Environmental Protection Act 1990 (EPA 1990) to seize, store and dispose of shopping trolleys found in its area and recharge its costs to the owners. The Council has decided that it will not to adopt these powers at present, but will keep the matter under review. Further details are given in Paragraph 3.13.
- The CNEA 2005 makes provision to enable local authorities to take advantage of the powers under the Noise Act 1996 to issue FPN's for night-noise from licensed premises. Central Government is currently consulting on proposals for the permitted levels of noise. The Council will consider implementing these powers as and when they are brought into force. Further details are given in Paragraph 3.14.1.
- The Council can choose to designate any or all of its district an Alarm Notification Area. The effect is to require all intruder alarms, residential and non-residential, to be notified to the Council with the identification of the key-holder. The Council has decided that it will not implement these powers at present, but will keep the matter under review. Further details are given in Paragraph 3.14.2.

CHAPTER 3

3. Offences and Proposed Enforcement Procedures

The Council has the power to take enforcement action against persons and businesses that commit a variety of environmental crimes and anti-social behaviour that can blight our local neighbourhoods. The following are considered to be the core offences.

3.1 Dropping Litter

The EPA 1990, Section 87 created the offence of leaving litter: “if any person throws down, drops or otherwise deposits in, into or from any place to which this section applies, and leaves, anything whatsoever in such circumstances as to cause, or contribute to, or tend to lead to, the defacement by litter of any place to which this section applies....”. This related to places in the open air to which the public are entitled or permitted to have access without payment, including any covered place open to the air on at least one side and to which the public has access.

The CNEA 2005 extends the scope of that offence so that it becomes an offence to drop litter anywhere in the open air (including rivers and lakes) regardless of ownership, except in locations where the public does not have access or the owner of the land has given permission for the dropping of litter, or a legal authorisation exists to do so.

The CNEA 2005 makes it clear that litter includes smoking-related litter and discarded chewing gum.

A person found guilty of the litter offence may be fined up to level 4 on the standard scale (currently £2,500) in the magistrates’ court. FPN’s may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

3.2 Street Litter Outside Premises

The Council will always seek to work in partnership with businesses to resolve the problem of street litter and seek to remedy it, where possible, through joint working and good management practice. When this approach is unsuccessful the Council has powers, under the EPA 1990, Section 93 to tackle street litter generated by certain defined commercial operators. The Council can serve a Street Litter Control Notice to make the operator responsible for the clearing of the excess of litter and refuse arising from the business and/or providing adequate disposal facilities. The CNEA 2005 and Street Litter Control Notices (England) (Amendment) Order 2007 have extended the list of defined commercial and retail premises, which now includes:

- Premises used wholly or partly for the sale of food and drink for consumption either off the premises or on the premises if outside and adjacent to the street;
- Service stations;
- Recreational venues such as cinemas, theatres, sports facilities and pitches;
- Banks and building societies with automated teller machines;

- Betting shops;
- Premises selling lottery tickets;
- Premises outside of which goods are displayed for sale on or adjacent to the street;
- Vehicles, stalls and other moveable structures used on a street;
- Pubs, clubs, bars, cafes, restaurants, eating and drinking venues, outside of which smoking-related litter and other types of litter may be dropped by customers.

It is proposed that the fully amended list of defined premises shall also include office premises, but further legislation will be required to enact this.

When taking action, the Council must follow DEFRA's "Code of Practice on Litter and Refuse", 2006. In particular, it must have regard to specific criteria defining when land may be considered to be "defaced" by litter or refuse and must give the operator of the business 21 days to make representations prior to the service of a notice.

The EPA 1990, Section 94 as amended by the CNEA 2005, makes it immediately an offence to fail to comply with the requirements of a Street Litter Control Notice. A person found guilty of this offence can be given a fine of up to a maximum level 4 (currently £2,500). FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

3.3 Controlling the Distribution of Free Literature

The EPA 1990, Section 94B and Schedule 3A gives local authorities the power to control the distribution of free literature such as leaflets and other printed materials. The Council can, by order, designate areas of its own land or highways, in which free literature is permitted only with its consent.

Anyone distributing, or commissioning the distribution of free literature in a designated area without consent (except charities or for political or religious purposes) is committing an offence and, if found guilty, can be given a fine of up to a maximum level 4 (currently £2,500). FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

The Council does not currently consider there to be a significant problem with littering in the district caused by the distribution of free literature and therefore has decided that it will not make any orders at the present moment in time. However, the Council will nevertheless monitor the level of complaints received about the distribution of free literature and make regular assessments of whether this policy remains appropriate.

3.4 Land owned by the Crown, Statutory Undertakers or Educational Bodies - Litter Abatement Notices

The EPA 1990, Section 92 empowers the Council to serve a Litter Abatement Notice on a duty body (a Crown authority, statutory undertaker or educational establishment), which is failing to keep its relevant land clear of litter and refuse. These powers have not been affected by the CNEA 2005.

A Litter Abatement Notice may specify a requirement for the litter or refuse to be cleared within a certain time and/or a prohibition on permitting the land to become defaced by litter or refuse. The standards set out in DEFRA's Code of Practice on Litter and Refuse are crucial in determining, in the first place, whether a duty body is complying with its statutory duty, and secondly, whether the standard of cleanliness is sufficient to comply with a notice.

It is an offence for someone "without reasonable excuse" to fail to comply with a Litter Abatement Notice, punishable by a maximum fine at level 4 (currently £2,500), together with a further fine of one-twentieth of that amount a day for each day that the offence continues after conviction.

3.5 Litter on other areas of Land - Litter Clearing Notices

Under the EPA 1990, Section 92A, as amended by the CNEA 2005, the Council can serve Litter Clearing Notices where land "is defaced by litter or refuse so as to be detrimental to the amenity of the locality". These powers replace the "Litter Control Areas" created by the EPA 1990.

Litter Clearing Notices are used where local authorities do not have a duty to clear litter and refuse, most commonly private land. A Litter Clearing Notice enables the Council to require the occupier (or if the land is unoccupied, the owner) of the land which is defaced by litter or refuse to clear it, and, where appropriate, take steps to prevent it from becoming heavily defaced again. The Council is able to specify the areas and the standard to which the land must be cleared.

If the land is not cleared satisfactorily, the Council can enter the land, clear it itself and recover the costs of doing so. A person found guilty of the litter offence may be fined up to level 4 on the standard scale (currently £2,500). FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

3.6 Fly-Tipping

Fly-tipping is the illegal dumping of waste onto land that does not have a Waste Management Licence (Section 33, EPA 1990). This can range from drums of toxic material or asbestos waste to clinical and household waste.

The EPA 1990 makes it an offence to deposit, treat, keep or dispose of controlled waste other than under and in accordance with a waste management licence or to treat, keep or dispose of controlled waste in a manner likely to cause pollution of the environment or harm to human health. The CNEA 2005 removes the defence of an offender acting under his employer's instructions.

The CNEA 2005 increased the penalty for a person found guilty of a fly-tipping offence to up to £50,000, or a term not exceeding 5 years imprisonment for both hazardous and non-hazardous waste offences. The court can also order the forfeiture of a vehicle used to commit the offence. *There is not an option to offer a fixed penalty payment in lieu of prosecution.* This is in line with the Government's desire to take a tougher line on environmental crime and stresses the seriousness of disposing of waste illegally.

The powers to deal with fly-tipping incidents are shared between local authorities and the Environment Agency. The national Fly-tipping Protocol (agreed between the Environment Agency and Local Government Association) gives guidance on which authority should take the lead in dealing with fly-tips dependant on their size, composition and location. The Council has worked in partnership with the other Suffolk district and borough councils and the Environment Agency to produce a local Fly-Tipping Protocol for Suffolk. This local agreement sets out how the respective bodies will co-operate to adopt the principles of shared working and specifies local arrangements for co-ordinating their respective activities to deal with fly-tipping.

Both the Council and the Environment Agency may serve a notice under the EPA 1990, Section 59 requiring the owner or occupier of land to remove fly-tipped waste and/or reduce the consequences of the incident. An owner or occupier has grounds for appeal if he can satisfy the court that he neither deposited nor knowingly caused or permitted the deposit of the waste. The Council and the Environment Agency can also remove fly-tipped material and recover their investigation and clean up costs of doing so from convicted fly-tippers.

Though not yet in force, the CNEA 2005 will enable local authorities to stop, search and seize vehicles involved in fly-tipping offences - DEFRA is currently working on the regulations setting out the powers.

The deliberate abandonment of any matter on land, in the open air or on any other land forming part of a highway is also an offence under the Refuse Disposal (Amenity) Act 1978, Section 2, punishable by a fine of up to £2,500 and/or 3 months' imprisonment.

3.7 Failure to Produce Waste Transportation Documents

The EPA 1990, Section 34 requires any producer of waste to apply the "duty of care" to make sure waste is passed on to an authorised person and to prevent any person from committing a fly-tipping offence under Section 33, or allowing any waste to escape due to negligence. Businesses must keep a waste transfer note and written description of the waste for two years. The CNEA 2005 removes the defence that the offender was acting under employers' instructions.

There is no need for householders to have waste transfer documentation for waste that is collected by the Council. *If, however, householders employ a contractor to remove waste from their property (such as garden or building waste) they have a duty to take reasonable measures to ensure that their waste is passed on to an authorised person.* The duty emphasises the responsibility that residents must not support illegal waste transfer and fly-tipping, whether knowingly or unknowingly.

Authorised Council officers have powers to investigate illegal waste disposal or duty of care offences. The Council has commenced a programme of duty of care inspections of businesses, and will issue FPN's where it is appropriate to do so. Though not yet in force, the CNEA 2005 will enable local authorities to stop, search and seize unregistered vehicles being used to transport waste - DEFRA is currently working on the regulations setting out the powers.

Persons (including householders) consigning waste to an unregistered carrier may be in breach of the waste duty of care. The current penalty for failing to comply with the duty is, upon conviction in a magistrates' court, a maximum fine of £5,000. Transporting controlled waste without a waste carrier registration is also an offence punishable currently by a fine of up to £5,000. FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

3.8 Waste Receptacles

Waste that is left out on the street at the wrong time or in the wrong receptacle can cause disruption and nuisance to the street scene and generate additional disposal costs to the Council.

Under the EPA 1990, Sections 46 and 47 the Council can specify what materials can and cannot be placed in certain kinds of waste receptacle (such as only dry recyclable waste in blue wheeled bins and residual waste in black wheeled bins) and the location where residents and businesses must put their waste receptacles to facilitate waste collection. If the location is outside of the boundary of a property, the Council can also specify between what times the receptacles must be put out.

The Council's "Refuse and Recycling Policy" (reproduced at Appendix II) was adopted in March 2006 and has been widely publicised. For residential properties, the policy specifies what waste materials can be placed in each type of waste receptacle and requires householders to present the appropriate receptacle at the boundary of their property or nearest point to a public highway by 07:00 hours on the specified collection day.

The Council's policy also specifies what action will be taken if inappropriate waste is placed in the recycle bin. Yellow and red warning stickers are placed on the affected bins on the first two occasions. On the third occasion an official letter is written to the re-offending householder advising them of the reasons why their bin has not been emptied and that they must cease the offending practice for it to be emptied in future. This is then followed up by a visit from an authorised officer who will serve a "Waste Receptacles Notice" on the occupier requiring them to cease the offending practice. Waste Receptacles Notices can also be served to require bins to be put out at the correct time and location. A person found guilty of failing to comply with a notice may be fined up to level 3 on the standard scale (currently £1,000). The CNEA 2005 has empowered local authorities to issue FPN's as an alternative to prosecution – further details are given in Chapters 4 and 5.

The Council will review its Refuse and Recycling Policy as soon as possible to ensure it is consistent with this strategy, particularly with respect to enforcement issues relating to the collection of "side-waste", contamination of recyclable material bins with inappropriate waste and overloading of bins.

3.9 Abandoning a Vehicle

The Refuse Disposal (Amenity) Act 1978, Section 2 makes it an offence to abandon any vehicle on any land in the open air. There is no legal definition of an abandoned vehicle. Authorised officers must use their discretion when forming decisions on abandonment using the DEFRA guidance "Nuisance Parking Offences and Abandoned Vehicles", 2006.

If found guilty of abandoning a vehicle on a highway or on land in the open air, a person can be fined up to level 4 on the standard scale (currently £2,500) and/or imprisoned for up to 3 months. FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

Under the Refuse Disposal (Amenity) Act 1978, Sections 3-5, the Council has a duty to remove unlawfully abandoned vehicles, unless they are not on the carriageway and the costs of removing them to the nearest convenient carriageway would be unreasonably high. Removal of vehicles is done in conjunction with the Police and the Driver and Vehicle Licensing Agency (DVLA). If the vehicle is believed to be of some value, the Council can remove it immediately. If it is judged to be of no value, then the statutory period is 24 hours. For private land, a 15-day notice is served of the intention to remove the vehicle and dispose of it.

The CNEA 2005 enables local authorities to remove *all* abandoned vehicles immediately from a road, without the need to affix a 24-hour notice. The 15-day notice on private land remains unchanged.

Although the legislation permits instant removal of abandoned vehicles from a road, the Council's experience is that the majority of vehicles which are reported as being abandoned, are actually retrieved by the owner following notification. The Council therefore produced a "Policy Statement on Abandoned and Nuisance Vehicles", March 2006 (reproduced at Appendix III), which specifies that immediate removal will only be effected if it is obvious that the vehicle has been abandoned (e.g. burnt out and dangerous). In other cases relating to public land (including the highway) 7-days' notice is given.

Abandoned vehicles on private land can be removed at the request of the landowner, but the cost of doing so will be recharged to the landowner, if appropriate.

All untaxed vehicles will be destroyed 7 days after collection, if the owner does not register an interest in keeping them. Once a vehicle has been removed, the registered keeper will be contacted in writing to advise them that the vehicle has been removed and of any outstanding charges associated with this action. The registered keeper will be advised to contact the Council within 7 days of its removal date if they wish to re-claim the vehicle. Vehicles which have no registered keeper or which do not display a registration mark may be destroyed immediately. The Council can recover the costs of removing, storing and disposing of the vehicle from either the owner, unless they can show they were not knowingly involved, the last registered keeper of the vehicle, or the person who abandoned the vehicle.

Since 1 January 2007, under regulations made to implement the EU End of Life Vehicle Directive, most vehicles (cars and goods vehicles up to 3.5 tonnes) now qualify for free “take-back”, with the manufacturer paying the disposal costs, even if the vehicle has no value when scrapped. There is a national scheme with free disposal for owners at Authorised Treatment Facilities (ATF), provided the vehicle is largely complete and is free of additional waste. ATF’s may also arrange for collection of vehicles although certain charges may apply. The Council also offers a voluntary surrender scheme (currently charged at £35) for those who cannot take their car to an ATF, (or where the cost of collection by the ATF is greater than the Council’s charges) and for those who cannot determine the national arrangements for their make of car. Given the existence of these schemes, it is the Council’s policy to take firm enforcement action where it has evidence that someone has unlawfully abandoned a vehicle.

3.10 Nuisance Vehicles

Some businesses place vehicles for sale, for an extended period, on the street. This can cause significant nuisance to local residents and takes up valuable car parking spaces. The same is true with vehicles that are repaired on the street, which can also look unsightly, can lead to damage of the local environment (e.g. leaks of oil) and may also present a danger to passers by.

The CNEA 2005, Section 3 creates the offence of exposing or advertising for sale two or more vehicles on the road(s) within 500 metres of each other as part of a business. There is no definition of “business” in the CNEA 2005 and so it remains to be seen how practical it will be to enforce this legislation in situations where individuals are allegedly operating a car sales business from the road.

The CNEA 2005, Section 4 also makes it an offence to carry out restricted works (repair, maintenance, servicing, improvement or dismantling) on a motor vehicle on a road for gain or reward or as part of a business. The offence can also apply to private individuals if the repairs “give reasonable cause for annoyance to persons in the vicinity”. There is no legal definition of “reasonable cause for annoyance” and interpretation of this provision will be for the courts. However, the concept of “reasonableness” is one that is familiar to Council enforcement officers.

A person found guilty of a nuisance vehicle offence may be fined up to level 4 on the standard scale (currently £2,500) in the magistrates' court. FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

3.11 Dogs Control Orders

The Babergh District Council (Fouling of Land) Order 1997 was made under the Dogs (Fouling of Land) Act 1996. The order, which is reproduced at Appendix IV, applies to all land in the district open to the air (apart from certain specified exempted areas) and makes it an offence to fail to remove dog faeces. FPN's can be served for dog fouling in designated areas. Although the 1996 Act has been repealed by the CNEA 2005, the 1997 Order remains in force until such time as any "Dog Control Order" made under the CNEA 2005 (Sections 55-68) overrides it.

Primary and secondary authorities (the District Council and Parish/Town Councils respectively) can declare Dog Control Orders to prescribe any of the following issues as an offence:

- (i) Not keeping a dog on a lead;
- (ii) Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;
- (iii) Permitting a dog to enter land from which dogs are excluded;
- (iv) Taking more than a specified number of dogs onto land;
- (v) Failing to remove faeces.

However, to avoid potential conflicts, a secondary authority may not make an order in relation to an offence on a specified area of land if a primary authority has already made an order in respect of the *same* offence on the *same* land. The respective authorities must also consult each other before making any orders.

Dog Control Orders can be applied to any land that is in the open air and to which the public have access. However, land controlled by the Forestry Commission is exempt, as are roads in relation to orders that exclude dogs from land. The order-making process and prescribed offences are set out in regulations.

A person found guilty of committing an offence contained in a Dog Control Order may be fined up to level 3 on the standard scale (currently £1,000) in the magistrates' court. FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5.

The Council does not currently consider there to be a significant dog control problem in relation to the matters listed in (i) – (iv) above. The Council has therefore decided that it will not make any orders at the present moment in time with respect to these offences. However, the Council will monitor the level of any complaints received alleging such problems and will make regular assessments of whether this policy remains appropriate. The Council will also consider offering its support to any Parish/Town Council proposing to make an order in respect of these matters.

Dog faeces that are not removed are not only extremely unpleasant, but can also present a serious risk to health. The Council therefore considers that restrictions should remain in place across the district. In order to regularise its enforcement procedures with the CNEA 2005 powers, the Council will make a Fouling of Land by Dogs Control Order within 12 months from the adoption of this strategy, to supersede the existing Babergh District Council (Fouling of Land) Order 1997. The Council undertakes to consult the Parish/Town Councils and other stakeholders on the scope and extent of the proposed order.

The EPA 1990, Section 150 is amended so that responsibility for stray dogs, currently shared by local authorities and the Police, will pass wholly to local authorities. However, the commencement of the Council's sole responsibility will only occur when funding has been agreed, currently anticipated to be April 2008.

3.12 Unlawful Advertisements, Fly-Posting and Graffiti

Many of Babergh's settlement centres are of historic significance, and many are designated as conservation areas where there is a duty to preserve or enhance the character of the area. Although not a major problem in the district, fly-posting and graffiti can blight neighbourhoods and be visually intimidating for the community and visitors to the area. Powers have therefore been introduced to tackle those responsible for fly-posting and persistent "taggers" who deface with their graffiti. The Council will seek to utilise these powers in a manner which is proportionate to the scale of the problems and with the risks posed by non-compliance.

3.12.1 Town and Country Planning Controls

The DEFRA guidance "Defacement Removal Notices", 2006, advises that in the first instance, local authorities should make use of powers under the Town and Country Planning Act 1990 (TCPA 1990) to pursue the perpetrators of fly-posting and unlawful advertising.

Under the TCPA 1990, Section 224 it is immediately an offence to display an advertisement in contravention of regulations made under the Act. These regulations relate to the permission for the display of the material and the nature and size of the material to be displayed. A person found guilty of this offence may be fined up to level 4 (currently £2,500) in a magistrates' court, with the possibility of an additional daily fine up to one-tenth that level, if the poster continues to be displayed.

Local authorities have the power to remove or obliterate placards and posters under the TCPA 1990, Section 225. Cost recovery provisions in the TCPA 1990 have also been introduced by the CNEA 2005. The costs of removal are now recoverable from the person who displayed the poster or placard, or caused it to be displayed, or, if they cannot be identified, from the persons whose goods, services or concerns are publicised. The CNEA 2005 has also amended the defence for an owner upon whose land an unlawful advertisement is displayed, so that he now has to prove the advertisement was displayed without his knowledge or that he took all reasonable steps to prevent the display, or to secure its removal. This makes it more difficult for the beneficiaries of fly-posting to avoid prosecution simply by claiming that they never consented to the advertisement.

Advertisements Displayed with Deemed Consent

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 stipulate that, unless an advertisement is within one of the excepted “classes” or one of the “deemed consent” classes specified in the Regulations, an application must be made to the local planning authority for express consent to display the advertisement. Consent may still be required if certain conditions and limitations on design, duration etc. are not met. Reference should be made to the Regulations for the full list of “exemptions”. However, there are a number of exemptions which relate specifically to issues within largely rural districts such as Babergh and these are summarised below.

Temporary Advertisements for Local Charitable Events

It is appropriate for a distinction to be drawn between, for example, a poster advertising a local community or charitable event and a poster advertising a commercial activity. Class 3D of the Regulations therefore permits temporary advertisements advertising any local event or activity being held for charitable purposes. The event or activity may be religious, educational, cultural, political, social or recreational, but cannot be an event or activity promoted or carried on for any commercial purpose. Class 3D advertisements include advertisements for a church bazaar, a fete for parent-teacher association, a sponsored marathon in aid of charity, an amateur sports event, but not any sporting event organised for commercial purposes. The Council considers that sponsorship of commercial activities on these signs could be viewed as compromising this position. There are still restrictions on the design of such advertisements and they must not be displayed more than 28 days before the event or activity begins and must be removed not later than 14 days after it ends.

Advertisements Alongside Roads

The “Babergh Local Plan Alteration No. 2” (2006), which contains the Council’s planning policies guiding development in the district, specifies that “where express consent is required for the display of advertisements, consent will not be granted for signs and advertisements which, by reason of their number, siting, appearance or illumination would be to the detriment of the landscape, or are likely to be a distraction to motorists”. Any advertisement, including any advertisement in the deemed consent classes, which does not comply with the conditions and limitations for its class, also requires express consent. Advertisements on vehicles or trailers parked in fields, verges, or in lay-bys require express consent. Only when the vehicle is used as a moving vehicle and is not used principally for the display of advertisements is any advertisement on it lawful. It is an immediate offence to display an advertisement without the required consent. The site where the vehicle is parked for any length of time becomes a site for the display of advertisements. The “site” can be regarded as all the land owned by the owner of the site, or the length of the highway in the local planning authority’s area.

As there are road safety issues in displaying advertisements alongside trunk roads, the Highways Agency should be consulted about any application for express consent. The Highways Agency is unlikely to support any application for an advertisement which could distract drivers. The road safety and amenity issues raised by these advertisements mean that it is unlikely that express consent to display them would be given.

Babergh is also faced with advertising in the countryside for commercial events, such as local beer festivals, farmers markets and other annual events. These types of advertisement detract from the character of the countryside locations and are often on highway land or attached to highway signs. However, the Council is mindful of the fact that such signs are often a vital way of attracting potential customers to such events and thus benefiting the local economy and it may be appropriate to allow a degree of “toleration” for a short period either side of an event. The Council will therefore seek to work in partnership with Suffolk County Council Highways to develop a joint protocol for regulating the use of temporary signs for commercial events.

Sign Posting of Businesses and Tourist Facilities in Rural Areas

Local planning authorities in scenically attractive rural areas frequently have to decide advertisement applications for “advance signs”, to be sited off highway land, directing potential customers to local businesses or tourist facilities, e.g. a hotel, restaurant, or inn, or bed and breakfast accommodation, or a craft workshop, situated well away from any main road. This type of advertisement application may conflict with the Council’s Local Plan policy statements for the display of outdoor advertisements. In dealing with applications for “advance signs”, to be sited off highway land, the Council will follow its Local Plan guidance which stipulates that “such signs require careful control to avoid damaging the landscape and character of rural areas”. The Council seeks to co-operate with Suffolk County Council Highways in encouraging the display of environmentally acceptable sign posting schemes where it is clear that an approved scheme will help to avoid a proliferation of poorly designed signs e.g. the signing of facilities in a village from a bypass.

Advertising using “A-boards” can have an impact upon a neighbourhood. If there are too many or they are too large then there is a visual impact and depending upon the width of a footpath there are implications for those with disabilities or pushing youngsters in pushchairs. The removal of A-boards from the central areas of Sudbury, Hadleigh, Long Melford and Lavenham has proved a difficult task. However a pragmatic approach has previously been successfully adopted in Lavenham by supporting certain A-boards depending upon their size and the width of the footpath. The Council will therefore seek to work in partnership with Suffolk County Council Highways to develop a joint protocol for regulating the use of A-boards.

3.12.2 Other Controls on Unlawful Advertisements, Fly-Posting and Graffiti

The Local Government Act 1972, Section 222 enables local authorities to seek injunctive relief in the County Court to prohibit someone from continuing to cause a public nuisance. This is a civil procedure, but with criminal sanctions and can provide a swift remedy in certain instances.

The Highways Act 1980, Section 132 enables the highway authority to remove unlawful advertisements such as pictures or signs attached to any trees, structures or works in the highway. Advertisements and posters can be removed without notice if the displayer cannot be identified or within two days’ notice where this information is given on the advertisement/poster.

The Anti-social Behaviour Act 2003, Section 48 (as amended by the CNEA 2005) allows the Council to serve a Defacement Removal Notice on the owners, occupiers, operators (such as telecommunication companies and outdoor advertising companies) of “relevant surfaces”, statutory undertakers and educational institutions, whose property is defaced with fly-posting or graffiti that is detrimental to the amenity of the area or offensive. “Relevant surfaces” are defined as street surfaces of, or buildings and structures that are *in or on*, the public street. This therefore covers property like bus shelters and phone boxes, but not a privately owned building facing onto a street, such as a shop. Neither will parks, open spaces and garden or other similar areas off the street be covered.

DEFRA guidance specifically states that Defacement Removal Notices are not intended to be used to deal with new cases of fly-posting and that offenders should be pursued under the TCPA 1990 wherever possible. It also advises that local authorities should only issue notices as a last resort, since property owners are often the victims. Instead, local authorities should make reasonable attempts to work in partnership with property owners to secure the removal of fly posters and graffiti.

The Anti-social Behaviour Act 2003, Section 43 enables authorised officers to serve FPN’s on persons responsible for fly-posting or graffiti who have committed a variety of “relevant offences” specified in Section 44 of the Act, as set out below (further details are given in Chapters 4 and 5):

- An offence under the Criminal Damage Act 1971, Section 1 of damaging property by painting, writing, soiling, marking or otherwise defacing;
- An offence under the Highways Act 1980, Section 132 of obliterating, printing or affixing things on structures on the highway;
- An offence under the TCPA 1990, Section 224 of displaying advertisements in contravention of regulations.

The Council undertakes to make all reasonable attempts to work with property owners to secure the removal of graffiti and old posters and remnants of posters, before resorting to the use of enforcement action. To this end, the Council will, through the mechanism of the Babergh Crime and Disorder Reduction Partnership, seek to develop a programme of partnership working with businesses, Service Providers, Parish/Town Councils, schools and other public authorities to secure a reduction in the level of defacement by graffiti in the district. This may include: schemes to identify offenders by their “tags”; issuing graffiti removal kits to community wardens and Parish/Town Councils; developing schemes with the Suffolk Probation Service for offenders to carry out community restoration; and establishing contacts and agreements with Service Providers such as telecommunications companies to secure the removal of graffiti from their street installations.

3.13 Abandoned Shopping Trolleys

The Council can choose to adopt powers under Section 99 of the EPA 1990 to seize, store and dispose of shopping trolleys found in its area. There are prescribed consultation procedures that must be followed before the powers can be adopted.

If the powers were adopted, the Council would be required to notify the trolley owner within 14 days of it being seized and keep the trolley for at least 6 weeks. If the trolley is not reclaimed after 6 weeks, the Council could sell or dispose of the trolley and charge the person who appears to be the owner an amount to cover the removal, storage, administration and disposal costs. There are no provisions for issuing FPN's for abandoned trolleys.

The Council does not currently consider there to be a significant problem with abandoned shopping trolleys in the district and has therefore decided that it will not adopt the Section 99 powers at the present moment in time. The Council will endeavour to agree protocols with major retailers for the retrieval of abandoned shopping trolleys where localised problems are identified. The Council will also continue to monitor the level of complaints received about abandoned trolleys and make regular assessments of whether its policy remains appropriate.

3.14 Noise - Night Time Noise and Audible Intruder Alarms

3.14.1 Night Time Noise from Dwellings and Licensed Premises

Under the Noise Act 1996 as amended by the Anti-social Behaviour Act 2003, Section 42, local authorities have powers to deal with complaints from any individual present in a dwelling during night hours that excessive noise is being emitted from another dwelling.

Where an authorised Council officer is satisfied that: (i) noise is being emitted from the offending premises during night hours (11pm to 7am); and (ii) the noise if measured within the complainant's dwelling would or might exceed the "permitted level"; he may serve a Warning Notice on the person responsible requiring the noise to be reduced to below the permitted level. The permitted level is determined in accordance with the following:

- In any case where the underlying level of noise does not exceed 25dB, the permitted level shall be 35dB.
- In any case where the underlying level of noise exceeds 25dB, the permitted level shall be 10dB in excess of that underlying level.

While the 1996 Act does not define the type of noise to which the new offence might apply, it is understood that the technical aspects of measuring the noise complained of means that there may be difficulties in assessing some impulsive or sporadic noises e.g. slamming doors and isolated incidents of shouting. The Council does not therefore intend to use these provisions for the control of such domestic activities. The night noise offence is likely to be most appropriate for cases of disturbance from persistent noises (e.g. amplified music or prolonged noisy DIY activity) and the Council will consider use of the powers in such circumstances.

Failure to comply with a Warning Notice is an offence. Actual measurement of the noise within the complainant's dwelling is only obligatory at this stage. It should also be noted that noise above the permitted level does not necessarily create a statutory nuisance. A person found guilty of this offence may be fined of up to level 3 on the standard scale (currently £1,000) in the magistrates' court. FPN's may be issued as an alternative to prosecution – further details are given in Chapters 4 and 5. There are also powers to seize noise-making equipment, either with or without a warrant, as necessary.

The CNEA 2005, Section 84 and Schedule 1 extends the provisions of the Noise Act 1996, including fixed penalties to premises which are the subject of a premises licence or a temporary event notice under the Licensing Act 2003. However, DEFRA is currently consulting on what should be the appropriate "permitted level" of noise from such premises. These powers will only be available to the Council when the necessary consultation has been completed and the legislation is fully enacted – currently anticipated to be during 2008.

3.14.2 Noise from Audible Intruder Alarms

Under the CNEA 2005, Section 69-81 the Council can designate any or all of its district an Alarm Notification Area (ANA). The effect is to require **all** intruder alarms, residential and non-residential, to be notified to the Council with the identification of the key-holder. There are prescribed consultation procedures that must be followed before an ANA can be designated.

In a designated ANA it would be an offence to fail to nominate or notify details of a key holder and the penalty on conviction is a fine of up to level 3 on the standard scale (currently £1,000). FPN's may be issued as an alternative to prosecution.

The Police and Council already operate a voluntary key holder notification scheme and the Council has powers under the EPA 1990 to deal with alarms that are causing a statutory nuisance, including powers of entry to silence them. The Council does not currently consider there to be a significant problem with noise from audible intruder alarms in the district. The designation of an ANA would also impose a significant administrative burden on the Council, which would be disproportionate to the benefits derived to the community. For these reasons, the Council has decided not to designate any ANA's at the present moment in time. However, the Council will continue to monitor the level of complaints received about noise from audible intruder alarms and make regular assessments of whether this policy remains appropriate.

3.15 Statutory Nuisance from Artificial Light and Insects

The CNEA 2005 has amended the existing statutory nuisance regime under the EPA 1990, Section 79 to include two new statutory nuisances:

- Artificial light emitted from premises so as to be prejudicial to health or a nuisance. However, this does not include light emitted from certain specified transport purposes and other premises where high levels of light are required for safety and security reasons e.g. defence premises, railways and bus stations. Legal advice from DEFRA also advises that interference with a hobby (such as astronomy) from artificial light, will *not* constitute an actionable statutory nuisance. It is therefore anticipated that use of the new powers will be limited.
- Insects (other than those listed in the Wildlife and Countryside Act 1981) emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance e.g. from agriculture, husbandry or nurseries.

The statutory nuisance regime is well established and is enforced by the Council through its existing general enforcement policy. These new powers do not fall within the remit of this strategy and have been included for the sake of completeness of the new CNEA 2005 powers.

CHAPTER 4

4. Enforcement Options and Procedures

Babergh District Council recognises and affirms the importance of achieving and maintaining consistency in its approach to making decisions that concern standards of enforcement action. In making its decisions the Council will consider:

- The seriousness of the offence;
- Evidence that suggests that there was pre-meditation in the commission of an offence;
- Any explanation offered by the offender;
- The age of the offender;
- The previous relevant history, if any;
- The likelihood of the offender being able to establish a defence;
- The ability of any important witnesses and their willingness to cooperate;
- Whether other action such as the issue of a FPN would be more appropriate or effective;
- The advice contained in the Code for Crown Prosecutors.

Enforcement action against the offences described in Chapter 3 will require authorised officers to follow set procedures and protocols in order to ensure consistency in the collection of evidence and the enforcement actions applied. Enforcement action should only be taken if there is complete evidence of an offence having taken place.

Having considered all relevant information and evidence, one or more of the following choices for action are available to officers:

- No action;
- Informal action, including the offering of advice and recommendations and written warnings;
- Formal action, which may include a simple caution, a FPN or prosecution.

4.1 Enforcement Options - No Action

This may be appropriate for very minor offences or technical breaches that are immediately remedied, or where investigation reveals that an offence has occurred, but no offender can be identified.

4.2 Enforcement Options - Informal Action

Informal action to facilitate compliance with legislation includes giving a warning and the offering of advice and recommendations for action, either verbally or in writing. Informal action may be appropriate in the following circumstances:

- The offence committed was by a genuine mistake or accident;
- The details of the offence were witnessed by a person who wishes to remain anonymous and is not prepared to give a witness statement;

- Where the offence has been committed by a child or young person (although in certain cases such as repeated offences it may be appropriate to consider formal action – refer to Paragraphs 4.3 and 5.5.2);
- Where the offender has been or is genuinely impeded from preventing commission of the offence e.g. a wheelchair user unable to reach and clear up litter;
- Circumstances in which informal action is considered to offer a more effective remedy than the formal approach. In these instances the officer will use his or her discretion, but will be called upon to justify the exercise of that discretion.

When an informal approach is used, officers will ensure that any written or verbal communication:

- Includes all information necessary to identify the breach of legislation;
- Confirms the specific legislation contravened;
- Clearly indicates any recommendations of good practice and explains that these are not legal requirements. As far as is possible, advice and information should be in plain language and be free from jargon.

Written warnings should only be used when there is sufficient evidence that a person has committed an offence, but it is considered inappropriate to take formal action. A written warning should contain the following information: the date, time and location of the alleged offence; personal details of the alleged offender; the nature of the offence and relevant legislation; and be signed and dated by the authorised officer.

4.3 Enforcement Options - Formal Action

4.3.1 Simple Cautions

An official or “simple caution” may be considered as an alternative to prosecution in accordance with Home Office Circular 30/2005, “Cautioning of Adult Offenders”. The purpose of the simple caution is:

- To deal quickly and simply with less serious offences;
- To divert less serious offences away from the courts;
- To reduce the chances of repeat offences.

In order for a simple caution to be administered, there must be sufficient evidence to consider taking a prosecution.

It will also be inappropriate to use a simple caution where the suspected offender does not make a clear and reliable admission of the offence. It should be noted that there is no legal obligation for any person to accept the offer of a simple caution and no pressure should be applied to the person to accept a caution.

If the offence is a first offence, or is of a technical nature, or is not sufficiently serious to proceed to Court, but could nevertheless be proved, a simple caution may be recommended by the authorised officer or an Environmental Protection Team manager.

Simple cautions will be administered according to Home Office and other relevant guidance. The Head of the Natural and Built Environment Division is duly authorised to issue simple cautions or to delegate this authorisation to suitably qualified officers.

In the event of a simple caution being offered and declined, prosecution will be recommended in accordance with this policy, and within powers delegated to the Head of Natural and Built Environment.

4.3.2 Fixed Penalty Notices

FPN's can, in appropriate cases, provide a quick, visible and effective way of dealing with low-level environmental crimes as an alternative to prosecution. Payment of the penalty by the recipient discharges their liability to conviction for the offence for which the FPN was issued. It also removes the possibility of the creation of a record for a criminal conviction.

FPN's may be issued when an authorised officer reasonably believes a person has committed one of the relevant offences set out in Chapter 3. In appropriate cases, the offender can be offered the opportunity to avoid prosecution by payment of a fixed penalty. The following circumstances are likely to warrant the use of a FPN:

- The officer believes that there are “reasonable grounds” to consider an offence has been committed;
- The officer has witnessed the offence, or there is a suitable witness and the alleged offender can be clearly identified;
- *There is sufficient evidence to support a successful prosecution, should the FPN go unpaid;*
- The alleged offender understands why they have been challenged and is cooperative;
- The officer believes that the alleged offender has offered their correct name and address;
- The alleged offender has not received a FPN before. DEFRA guidance advises that a FPN should be a “once only offer” designed to modify behaviour, hence for repeat offenders, the only sensible action is to prosecute. *It is therefore the Council's view that FPN's are not appropriate for repeat offenders;*
- There are no aggravating circumstances.

The Council considers it inappropriate to issue FPN's in the following circumstances:

- When the person in question is in some way “vulnerable”, such as those that might lead “chaotic” lifestyles e.g. the homeless or the mentally impaired;

- Where an alleged offender appears to be unable to understand the fact they have committed an offence, or where they appear not to understand the option of accepting a FPN, or there is any doubt about their ability to understand English. Where such circumstances arise, every effort will be made to take or express the required information with the assistance of an interpreter or appropriate adult;
- When the offence that has been committed is considered to be too “serious” in scale or effect to merit a FPN. *FPN’s will generally be used for less serious offences.* Where an offence is considered serious, the Council will consider prosecution. This is to ensure that offenders do not regard FPN’s as a “tax” rather than a penalty and are forced to address their offending behaviour. Though neither exhaustive nor prescriptive, the Council considers it likely that the following offences would be so serious as to warrant prosecution rather than the issue of a FPN:
 - (i) Graffiti
 - When the nature or scale of the defacement or damage makes the costs of repair high; and
 - Racially or religiously offensive graffiti.
 - (ii) Fly-posting
 - Large scale commercial fly-posting, which is commercially motivated and expensive to remove and repair; and
 - Fly-posting which involves multiple posters in the same locality.
 - (iii) Failure to produce waste authority (waste transfer note)
 - Where the offence constitutes large amounts of waste, from a medium to large enterprise, covering a longer period of time.
- When the offence is so small or trivial in its effect that it would not be in the public interest to issue a FPN. The Council considers that such circumstances are only likely to arise in relation to minor littering offences. In such instances the officer will use his or her discretion, having regard to the nature and quantity of the litter, the locality and amenity of the area and any other pertinent circumstances e.g. the close proximity of a litter bin.
- Those exempted within the law, for example the dog fouling offence, such as the blind or disabled (not including the deaf) in respect of a dog on which they rely for assistance;
- *Where it is known that the alleged offender has previously received a simple caution or a FPN, or has a conviction, for the particular offence or a similar offence;*
- Where the person challenged is non-cooperative or where the safety of the issuing officer may be compromised e.g. the person is aggressive or violent. In such circumstances and without putting themselves at risk, the officer will record details of the offence and undertake enquiries to identify the person’s identity in order to support a prosecution;

- When the offence is committed by a child under the age of ten and therefore below the age of criminal responsibility;
- *When the offence is committed by a juvenile (aged 10 – 17), (refer to Paragraphs 4.2 and 5.5.2 for further details).*

The Council's policies and procedures with regard to the issuing of FPN's are detailed in Chapter 5.

4.3.3 Prosecution

The recommendation to pursue formal legal action following an inspection will be made by an appropriately qualified and authorised officer in consultation with an Environmental Protection Team manager. Prosecutions will be conducted in accordance with normal legal procedures and practices and will take account of the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996 and the Human Rights Act 1998.

Basic details of the evidence to support a prosecution will be prepared as quickly as possible by the authorised officer who issued the FPN. Evidence will consist of signed witness statements from the officer and/or other witnesses, photographs and any other materials to substantiate the alleged offences.

The authorised officer and Environmental Protection Team manager will consult the Council's Solicitor on the quality and adequacy of evidence, and any other legal issues raised. If the Environmental Protection Team manager is satisfied that the recommendation is in line with statutory and professional guidance, and with the Council's policies, a prosecution file will be prepared and passed to the Head of Natural and Built Environment for authorisation of a prosecution.

The Council recognises that most people and businesses wish to comply with the law and prosecution will generally be restricted to those who appear to blatantly disregard the law. The following circumstances are likely to warrant prosecution:

- The offence involves a breach of the law and there is prima-facie evidence to support this;
- The alleged offender has refused to supply their details;
- The alleged offender has refused to accept a FPN or simple caution;
- A FPN has not been paid after the expiry of 14 days after issue;
- Where the alleged offender has previously received a simple caution or a FPN, or has a conviction for the particular offence or a similar offence;
- An officer of the Council has been threatened, assaulted or obstructed in carrying out their duties.

Where circumstances have been identified which may warrant a prosecution, all relevant evidence and information will be considered to enable a consistent, fair and objective decision to be made by the authorised officer in consultation with their manager and the Council's Solicitor.

4.4 Evidence Gathering Procedures

Evidence is the key to the enforcement process. The recording and storage of this evidence must be carried out in a concise and consistent manner to ensure its admissibility in court. Evidence collected by authorised officers will come in a variety of forms and from various sources.

4.4.1 Witness Statements from Authorised Officers

Where an authorised officer has witnessed an offence occurring that officer will record all relevant details of the circumstances of the offence in his notebook. Evidence will be recorded contemporaneously and in ink. If necessary, the information gained will be used by the authorised officer to prepare a witness statement. All authorised officers will be appropriately trained in the Council's procedures and relevant guidelines for the cautioning of alleged offenders and the recording of evidence.

4.4.2 Third Party Witness Statements

There may be times when a third party might have witnessed an offence. If this is the case, an authorised officer will take a statement, in a notebook, to record any evidence that they might be able to provide in support of an alleged offence. Any statement made by a witness must be signed and dated by the witness and witnessed by the authorised officer at the time of taking of the statement. Statements will be recorded on forms prepared to comply with evidential procedures.

Witnesses will be informed that should a case progress to the magistrates' court they might be called to give evidence. If this is something that they are not prepared to do, the authorised officer should not rely solely on their evidence to support the issuing of a FPN.

4.4.3 Other Supporting Evidence

There may be cases when other evidence might be useful to collect at the time of the offence. This includes any photographs, for example, of fly-posting, graffiti, or an abandoned vehicle. Photographs or CCTV images may also be used to confirm the identity of an offender. Evidence may also come in the form of addressed documents, which may relate to the person who has committed an offence e.g. when household waste is found to be fly-tipped, an authorised officer will search the waste for any documentation that could identify the person responsible.

4.4.4 Recording and Storing of Evidence

All evidence that is collected, including that which is recorded in notebooks, duplicate copies of FPN's, photographs, witness statements, etc. will be properly logged and securely stored in accordance with relevant national guidance, codes and the Council's procedures. This is important as it should be presumed that every offence for which a FPN is issued will end in the magistrates' court.

4.4.5 Interviewing Alleged Offenders

For evidence obtained by interviewing an alleged offender to be admissible in court, that person must first be cautioned in accordance with the Police and Criminal Evidence Act (PACE) 1984 and the relevant Codes of Practice. PACE interviews will only be undertaken by trained officers.

No juvenile (a person aged under 17) or mentally impaired person will be interviewed without an appropriate adult being present.

4.4.6 Correspondence under Caution

It might not always be possible to interview an alleged offender at the time they are witnessed committing an offence, for example if someone is witnessed throwing litter from a travelling vehicle. In such circumstances an alleged offender may be interviewed by putting relevant questions to them in writing. For any reply to be admissible in the court the letter that is sent in the first instance needs to contain the PACE caution.

4.4.7 Regulation of Investigatory Powers Act 2000

The Regulation of Investigatory Powers Act (RIPA) 2000 was introduced to regulate surveillance by public agencies so that investigation carried out by those agencies with a view to law enforcement, or in the public interest generally, would not lead to breaches of the Human Rights Act 1998. The legislation protects: (i) officers carrying out investigatory activity (in the sense that where surveillance is properly authorised and carried out according to the authorisation, the investigator should be protected against claims of unlawful activity); (ii) the subjects of surveillance; and (iii) the wider public who may be caught up “collaterally” in an investigation.

As part of the implementation of this strategy it may, from time to time, be necessary to carry out monitoring or investigation of personal and commercial activities which may constitute surveillance for the purposes of RIPA e.g. use of a hidden surveillance camera to catch perpetrators of fly-tipping or graffiti, or monitoring the personal activities of a suspect.

The legislation specifies the types of surveillance local authorities are permitted to carry out and when and how covert surveillance must be authorised. The Council has produced standard, council-wide “Guidance on Authorisation under the Regulation of Investigatory Powers Act, 2000”, (December 2005) for the authorisation of covert surveillance under the Act. This Guidance is intended to protect the residents of Babergh by ensuring that all directed surveillance undertaken by the Council will be conducted in accordance with RIPA, statutory guidance issued by the Home Office and practical advice from the Office of the Surveillance Commissioner.

All investigations carried out under this strategy and entailing surveillance will be assessed against the Council’s guidance on a case-by-case basis to determine whether RIPA authorisation is required.

However, where any of these criteria are met, RIPA authorisation will be sought as appropriate. All authorised enforcement officers and RIPA authorising officers will be provided with appropriate training in the Council's procedures (refer to Paragraph 5.3).

CHAPTER 5

5. Fixed Penalty Notices

5.1 Level of Fixed Penalty Notice Fines

The Government has made provision within the legislation for local authorities to set their own level of penalty for the various offences within fixed parameters, which may include a discount for early payment. Alternatively, the authority may use the default penalty set by the Government relating to each offence.

A partnership approach has been adopted in the formulation of the level of fines to ensure consistency across the county. A list of all the offences for which FPN's can be issued is shown in Appendix V, together with the agreed Babergh/Suffolk penalty fine level, the range of fines permitted by the legislation for comparison and options for early payment.

5.2 Authorised Officers

Babergh District Council officers, who are authorised in writing in accordance with the Council's constitution, can issue FPN's. The Head of Natural and Built Environment is delegated with authority to authorise officers to issue FPN's.

Babergh District Council does not currently propose to provide a dedicated street patrol team for local environment enforcement work. Enforcement officers within the Environmental Protection Team are currently authorised to issue FPN's as part of their general duties. To provide broader capability the Council may seek to authorise officers in other sections in the future, subject to feasibility, practicality and the provision of appropriate training e.g. Estate Wardens, Car Par Wardens, Anti-Social Behaviour Officers and Housing Officers.

Under the Police Reform Act 2002, Chief Police Officers may confer on Police Community Support Officers (PCSO's) and persons accredited under community safety accreditation schemes, the powers to issue FPN's for environmental offences including litter (Section 87 offence only), Dog Control Orders, graffiti and fly-posting (refer to Appendix V). These powers may be exercised on behalf of the Council. The Council will seek to consult Suffolk Police on whether it would be possible to make use of the extra resource provided by PCSO's and if so, in respect of which offences.

Sudbury Town Council and Great Cornard Parish Council have agreed to work in partnership with Babergh District Council to assist in implementing the fixed penalty regime. It has been agreed that the Sudbury Community Wardens will provide evidence to Babergh where they witness relevant offences. Babergh District Council will then consider the evidence to determine whether it is appropriate to issue a Fixed Penalty Notice. The Community Wardens will be provided with appropriate guidance on the requirements in relation to gathering evidence.

Parish and Town Councils are also able to directly authorise their own employees and contractors to issue FPN's for litter, graffiti, fly-posting and Dog Control Order offences. Babergh District Council's view is that, although this is a matter for individual Parish and Town Councils to decide, to ensure consistency (particularly in relation to the level of fines) any such proposals should be developed in partnership with the District Council. In this regard the Council would give full consideration to offering its assistance and services, in terms of the administrative infrastructure for the collection of fines and legal advice and support for the prosecution of offenders.

All of the Council's environmental protection enforcement officers are authorised individually in writing. The authorisation identifies the officer by name and position, the legislation that the officer is authorised to enforce and is signed and dated by the Head of Natural and Built Environment on behalf of the Council. Officers will carry their authorisation with them at all times whilst on duty and will show their card whenever challenging an alleged offender.

5.3 Training of Authorised Officers

It is essential that staff are well trained in order to deliver a professional and efficient enforcement service. Authorised officers will be given training in the Council's enforcement policies and procedures and the relevant legislation, particularly in relation to gathering evidence in accordance with judicial requirements (refer to Paragraph 4.4). Enforcing against environmental crimes also requires an ability to deal with members of the public in circumstances that can be confrontational. Therefore, training will also be provided to address health and safety, customer care, interpersonal skills and dealing with vulnerable persons. The Council will ensure that enforcement staff are competent in some, or all of the following areas, as appropriate to their duties:

- The requirements of the Police and Criminal Evidence Act 1984;
- The requirements of the Criminal Procedure and Investigations Act 1996;
- The requirements of the Regulation of Investigatory Powers Act 2000
- Investigative interviewing;
- Evidence gathering;
- Courtroom procedures;
- Procedural training on the various offences;
- Dealing with young persons;
- Taped interviews;
- Customer care;
- Violence and aggression;
- First aid;
- Health and safety risk assessments.

Some training will be provided by external training providers, but much will be tailored in-house training e.g. through the staff induction process.

If in the future, the Council seeks to use contractors or Police Community Support Officers to issue FPN's on its behalf, it will also need to ensure that they have the same level of training as that provided to their own staff, to ensure an equal level of service and standards.

5.4 Health and Safety

Babergh District Council will discharge its obligations under the Health and Safety at Work etc. Act 1974 in all the work carried out under this strategy, as it does for all other Council activities.

The Council recognises that work involving enforcement against environmental crimes may carry specific risks – this is true of many of the activities undertaken by Natural and Built Environment Division. The Council will carry out health and safety risk assessments in respect of all work activities and any necessary safety precautions identified will be implemented.

5.5 Issuing Fixed Penalty Notices

FPN's will be issued in the circumstances and in accordance with the guidance detailed in Paragraph 4.3.2. The Council will devise operational procedures for its staff when issuing FPN's, including:

- Working practices;
- When to issue and when not to issue;
- How to issue;
- The collection of evidence;
- Dealing with false details; and
- Dealing with agitated or threatening behaviour;
- Dealing with appeals; and
- Managing and maintaining information.

5.5.1 Dealing with False Details

Authorised officers have the statutory power to require the name and address of an alleged offender. Failing to supply these details, or giving a false name or address, is a separate offence for which a maximum fine up to level 3 on the standard scale (currently £1,000) may be given on conviction. *The Council will seek to prosecute for failure of alleged offenders to give the correct details, as well as the original offence.*

The issuing officer must ensure that there is sufficient evidence to confirm the alleged offender's identity, age and place of residence. Photographs or CCTV images may be taken to provide supportive evidence of an offence or confirm the identity of the offender and whether or not they are under 18 years.

The Council will seek to develop a working protocol with the Police so that police officers or PCSO's may assist in situations where an alleged offender refuses to supply details or is aggressive or violent.

5.5.2 Issuing Fixed Penalty Notices to Young People

The Council has undertaken to participate in a working group with the other Suffolk local authorities and Youth Offending Service, with the aim of devising a countywide agreement for issuing FPN's to juveniles. Until such time as an agreement is in place, Babergh District Council will not therefore issue a FPN to a juvenile (aged 10-17) who has committed an offence.

5.5.3 Delivery of Fixed Penalty Notices

A FPN must be issued to, and received by, the offender. Depending on the circumstances of the case, a FPN may be issued at the time of the offence or at a later date through the mail. The Council envisages that the majority of FPN's will be issued through the post, particularly if a situation has become confrontational, or there is a suspicion that false details may have been given. In relation to issuing FPN's on the spot, the Council will ensure that there are proper systems in place to check whether a person may have committed any similar offences in the past.

5.6 Issuing Fixed Penalty Notices on Private Land

Authorised officers are required to gain the permission of the landowner or occupier before they can enter private land. Upon consented entry, FPN's may be issued. This also applies in respect of privately owned land to which the public is entitled to have access. As a Waste Collection Authority, the Council has powers under the Environment Act 1995, Section 108 in certain circumstances to enter private land to carry out fly-tipping investigations.

5.7 Payment

There is a standard period for payment of fixed penalties, set in the legislation at 14 days. Once a FPN has been issued, the Council cannot prosecute for the alleged offence if the FPN is paid within this period.

The Council will offer a discount, where permitted by the legislation, if payment is made within 10 days of the date of issue of the FPN (refer to Appendix V).

If, following the 14-day payment period, a FPN is still outstanding, a final demand will be sent giving 7 days to pay. If the FPN is still not paid legal proceedings will be considered.

Payment by installments will not be accepted; neither will an extension to the stipulated period for payment be given (subject to the exceptional circumstances detailed in Paragraph 5.7.1).

The Council will only accept payments made in person to the Council offices or by cash, cheque, postal order or money order through the post. The Council will not charge for use of debit or credit cards to make a payment. Details of payment options will be printed on the FPN. Enforcement officers are not authorised to accept payment of FPN fines on the street.

5.7.1 Alternative Payment Options

Given that the payment of fixed penalty fines is seen as being a measure of success of the Council's FPN enforcement regime, it follows that allowing an alternative payment option, in certain circumstances, could be advantageous. Alternative payment options can work to secure payment and save the Council the time and expense of enforcing cases in the magistrates' court. For certain sections of the community payment within the statutory 14-day period can also be a challenge, particularly those that might be on limited income or on benefits. Further, to apply the 14-day rule rigidly, and pursue action in the magistrates' court following default, for those in such circumstances, could lead to a convicted person getting a sympathetic hearing in the courts with a nominal penalty imposed and limited costs awarded to the Council.

There are two approaches that may be offered as an alternative to full payment before the 14 days has expired - payment by instalments and deferred payment. Payment by instalments would be expensive to administer and so the Council has decided that deferred payment may be permitted in the following specific circumstances:

- When it is a juvenile (aged 10 – 17) that has been issued with a FPN;
- When someone is on benefits;
- When there is a proven case of hardship.

The onus will be on the recipient of the FPN, or an appropriate adult, to make the case for deferred payment, in writing within the initial 14-day payment window, and to provide the necessary evidence to substantiate their case.

Where deferred payment is offered this will be for no more than 42 days from the date of the offence.

To ensure that those who may be most disadvantaged by a FPN are not unfairly penalised because of their circumstances, where applicable in relation to the specific offence, the same discount terms detailed in Appendix V will be offered for early payment of the fine within 30 days of the date of issue of the FPN.

To ensure fairness and consistency, the decision to permit deferred payment will be made by the Head of Natural and Built Environment or an Environmental Protection Team manager in consultation with the issuing officer and the Council's Solicitor, as necessary. Each request for deferred payment will be considered on a case by case basis and will be offered for genuine reasons and not just as a matter of course.

When offering an option to defer payment, the relevant officer will be mindful that, if the recipient of the FPN defaults on the revised payment scheme, magistrates' court proceedings must be initiated within 6 months of the commissioning of the offence.

If deferred payment is offered, it will be made clear that the offer is a “once only offer”. Should the alleged offender fail to pay at the end of the extended period, a further extension will not be considered appropriate in anything other than the most exceptional circumstances. This is to say, if payment is not received by the agreed date, then prosecution will follow. The court will also be informed that the alleged offender was offered and accepted a deferred payment option, but then went on to ignore it.

5.8 Use of Fixed Penalty Notice Receipts

The Council is able to retain income derived from fixed penalty charges, including any receipts for FPN’s issued on behalf of the Council by other authorities.

The various Acts under which fixed penalties are issued enable local authorities to use their fixed penalty receipts only to help meet the cost of certain specified functions, as detailed in Appendix V. However, where a local authority is categorised as “excellent” or “good” under the Comprehensive Performance Assessment, the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2006 or the Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2006 allow that authority to spend the penalty receipts on any of its functions.

In accordance with Government guidance, FPN’s will be used as an appropriate and effective enforcement tool, not solely to generate income for the Council. The income generated within Babergh is expected to be modest given the extent of environmental crimes when compared to many other local authority areas.

5.9 Appeals Process

There is no obligation for the Council to offer an appeals process to someone that might want to dispute a FPN. However, an appeals process not only allows for the concerns of a member of the public to be heard, it also works as an assurance check on the Council’s enforcement system, to ensure that it is fit for purpose. The recipient of a FPN may have legitimate grounds for contesting the imposition of the penalty and an appeals process provides the opportunity to dispute a FPN prior to an offence appearing in the court. Further, should an appeal fail, any letter will serve to remind the “appellant” of the requirement to pay the FPN or face prosecution in the magistrates’ court. The “non-statutory” appeals process outlined below will be implemented.

Anyone who wants to appeal a FPN will not be disadvantaged by doing so. The offer of a discount for early payment of a FPN will still be given in the event of an unsuccessful appeal, providing that the appeal is lodged within 7 days of the alleged offence. It should be noted that an early payment discount is only offered for certain offences, as detailed in Appendix V.

5.9.1 How to make an Appeal

Details of how to make an appeal are specified on the FPN. Appeals must be made in writing to the Council’s Natural and Built Environment Division within 7 days of the issue of the FPN and should set out the recipient’s arguments as to why they feel that they should not have been issued with the FPN.

5.9.2 Grounds for Appeal

The Council will consider the following grounds for appeal:

- It is proven that the FPN was issued to the wrong person – this might be the case if someone challenged for an offence has given someone else’s details;
- Where the person issued with the FPN brings forward evidence that could undermine any later prosecution;
- Where a FPN has been wrongly issued, for example where a Dog Control Order didn’t apply or the person has exception under the law or a statutory defence applies;
- Where the person issued with the FPN is a child under the age of ten;
- If further evidence is provided that could lead to the conclusion that the person issued with a FPN is in some way vulnerable and the enforcement of the FPN would not be in the public interest; and
- It is for some other reason not considered to be in the public interest.

The Council will exercise its discretion regarding the facts of each offence and treat every case on an individual basis. The Council will not enter into disputes over the law or the amount of the fixed penalty.

5.9.3 Notification of Decision

The decision to confirm or cancel a FPN will be made by the Head of Natural and Built Environment or an Environmental Protection Team manager in consultation with the issuing officer and the Council’s Solicitor, as necessary.

The Council will notify the appellant in writing of its decision within 21 days of receiving an appeal. If the appeal is successful, the Council will explain the reasons for the outcome and that no further action will be taken and will cancel the FPN. If the appeal is unsuccessful, as full an explanation as possible will be given as to why this is the case. Further, the letter will state the action that will follow should the FPN go unpaid, the Council’s formal complaints procedure, should the person feel that they have been badly treated, along with an explanation of their right to have the accusation against them heard in the magistrates’ court.

Once a summons has been issued, the Council will not enter into any further communication concerning the facts of the offence.

5.10 Complaints Procedure

All complaints about the service provided under this strategy will be handled and determined in accordance with the Council’s “Complaints Procedure”. Details of how to make a complaint can be obtained by telephoning or writing to the Council, or from the Council’s Internet site.

CHAPTER 6

6.1 Monitoring Enforcement Activity

The Council will develop management systems for keeping up-to-date records of its enforcement activity, particularly in relation to the number of FPN's that have been issued, the receipts from them and the number of cases that have been pursued through the courts, following non-payment. This will provide a range of information to enable monitoring of:

- How the powers are being used;
- How widely the powers are being used;
- How the authority is performing i.e. payment rates;
- The number of cases being prosecuted in the magistrates' court;
- Where improvements to the system and further guidance might be needed.

The Council is also required to report this information to DEFRA on an annual basis.

The Council does not propose to set targets for the number of FPN's that it issues. This is because if FPN's work in the short term, following their introduction, there will be an increase in the number of notices issued. In time, numbers will plateau, before they decline as they prove their worth and the behaviour of offenders is changed. It therefore follows that to set targets based on year-on-year increases on the number of FPN's issued is unlikely to be appropriate, particularly if it cannot be shown to relate to the achievement of the enforcement strategy's objectives.

However, where targets have real value, particularly in the context of this strategy, is where they drive improvements in payment rates. The Council will therefore monitor the percentage number of FPN's that are paid and will aim to achieve a minimum payment rate of 75 per cent.

The Council's payment rate will be calculated by working out the percentage of FPN's paid against those issued, less any number that were cancelled, as below:

$$\text{Payment Rate (\%)} = \frac{\text{No. of FPN's paid}}{\text{No. of FPN's issued} - \text{No. of FPN's cancelled}} \times 100$$

6.2 Monitoring Improvements in Local Environmental Quality

The Council already reports its performance against a number of national "Best Value Performance Indicators" to ensure services are improved. There are a number of key indicators covering local environmental quality, which are detailed below, together with the Council's targets to be achieved.

6.2.1 BV 199a, Local Street and Environmental Cleanliness – Litter and Detritus

This performance indicator is defined as the proportion of relevant land and highways (expressed as a percentage) that is assessed as having combined deposits of litter and detritus that fall below an acceptable level. Targets are set locally having regard to Central Government policies and benchmarks.

An acceptable level of litter is taken to be Grade A, B+ or B, as defined by a seven point grading system developed for this indicator (building on that set out in the Code of Practice on Litter and Refuse). Grade A is given where there is no litter or refuse; Grade B for predominantly free of litter and refuse except for some small items; Grade C for a widespread distribution of litter and refuse, with minor accumulations; and Grade D when heavily littered, with significant accumulations. Intermediate Grades (B+, B/C and C-) are also used where the distribution of litter does not conform to the definitions used for the four grades.

An acceptable level of detritus is also taken to be Grade A, B+ or B, using a similar seven point grading system to that set out for litter. Grade A is given where there is no detritus present on the transect; Grade B for predominantly free of detritus except for some light scattering; Grade C for a widespread distribution of detritus with minor accumulations; and Grade D where extensively covered with detritus with significant accumulations. Intermediate grades (B+, B/C and C-) are applied as for litter.

6.2.2 BV 199b, Local Street and Environmental Cleanliness – Graffiti

This performance indicator is defined as the proportion of relevant land and highways (expressed as a percentage) from which unacceptable levels of graffiti are visible. Targets are set locally having regard to Central Government policies and benchmarks.

An acceptable level of graffiti is taken to be Grade A, B+ or B, as defined by a seven point grading system equivalent to that used in BV199a for litter and detritus. Grade A is given where there is no graffiti visible; Grade B for predominantly free of graffiti except for some small items; Grade C for a widespread distribution of graffiti, with minor concentrations; and Grade D when heavily graffitied, with significant concentrations. Intermediate grades (B+, B/C and C-) are applied as for litter and detritus.

6.2.3 BV 199c, Local Street and Environmental Cleanliness – Fly-Posting

This performance indicator is defined as the proportion of relevant land and highways (expressed as a percentage) from which unacceptable levels of fly-posting are visible. Targets are set locally having regard to Central Government policies and benchmarks.

An acceptable level of fly-posting is taken to be Grade A, B+ or B, as defined by a seven point grading system equivalent to that used in BV199a for litter and detritus. Grade A is given where there is no fly-posting visible; Grade B for predominantly free of fly-posting except for some small items; Grade C for a widespread distribution of fly-posting, with minor concentrations; and Grade D when heavily fly-posted, with significant concentrations. Intermediate grades (B+, B/C and C-) are applied as for litter and detritus.

6.2.4 BV 199d, Local Street and Environmental Cleanliness – Fly-Tipping

This performance indicator is defined as the year-on-year reduction in total number of incidents and increase in total number of enforcement actions taken to deal with fly-tipping. Targets are set locally having regard to Central Government policies and benchmarks.

The BVPI uses the national “Flycapture” database as a measurement of baseline data for fly-tipping. The Council is required to submit data to Flycapture on a monthly basis. Flycapture records summary numbers of incidents dealt with by the Council and records summary numbers of actions taken to deal with fly-tipping. Performance is assessed according to the following combination of incidents and actions:

- Total number of incidents dealt with decrease and total number of enforcement actions increase. Grading: “Very Effective” or “1”;
- Only total number of incidents decrease. Grading: “Effective” or “2”;
- Only total number of enforcement actions increase. Grading: “Good” or “3”;
- Total number of enforcement actions decrease. Grading: “Poor” or “4”;
- Total number of incidents increase. Grading: “Poor” or “4”.

6.2.5 BV 218a, Abandoned Vehicles - Investigations

This performance indicator is defined as the percentage of new reports of abandoned vehicles investigated within 24-hours of notification. “Notification” means either: (i) the point from which the Council receives a report of a suspected abandoned vehicle from a member of the public, or other authority; or (ii) a member of staff suspects a vehicle is abandoned. “Investigation” means that the Council will make enquiries into the status of the vehicle to confirm whether in their opinion it is abandoned. Targets are set locally having regard to Central Government policies and benchmarks.

6.2.6 BV 218b, Abandoned Vehicles - Removal

This performance indicator is defined as the percentage of abandoned vehicles removed within 24-hours from the point at which the Council is legally entitled to remove the vehicle. Targets are set locally having regard to Central Government policies and benchmarks.

6.2.7 Performance and Targets

The Council’s targets for 2007/08 in respect of the above indicators are detailed in Table 2. The Council will continue to monitor and report its performance in improving the local environmental quality on an annual basis through the indicators listed. However, it should be noted that Central Government is currently reviewing all of these indicators with a view to lifting unnecessary burdens placed on local authorities.

Table 2: Performance Indicators and Targets, 2007/08

No.	Description	Target 2007/08
BV 199a	Local Street and Environmental cleanliness -litter and detritus	13%
BV 199b	Local Street and Environmental cleanliness -graffiti	5%
BV 199c	Local Street and Environmental cleanliness - fly-posting	9%
BV 199d	Local Street and Environmental cleanliness -fly-tipping	Grade 2
BV 218a	Percentage of abandoned vehicles investigated within 24-hours	90%
BV 218b	Percentage of abandoned vehicles removed within 24-hours	80%

6.3 Review of Strategy

It is important that the strategy, and the use of FPN's, is reviewed on a regular basis to ensure that it continues to represent an efficient use of resources, remains effective in meeting the requirements of the legislation and, perhaps more importantly, help to determine whether it is having the desired effect in improving the local environmental quality. Regular reviews will also help the Council to identify problems and make changes to the way it uses and administers the powers and publicise its achievements. The Council will routinely review its strategy once every 3 years. As the Council gains experience with the legislation, it is anticipated that less frequent reviews (e.g. every 4-5 years) may become more appropriate in due course.

In some circumstances the Council might need to review the strategy before the scheduled date. Examples of changes that might trigger an unscheduled review are:

- Amendments or changes to the law;
- Changes to the structure or area of responsibility of the principal regulators (e.g. Babergh District Council or the Environment Agency);
- Significant changes in the budget allowance for duties coming within the remit of the strategy;
- Establishment of precedents in court cases which lead to alterations in interpretation of the law.

REFERENCES

Clean Neighbourhoods and Environment Act 2005, Chapter 16. The Stationery Office Ltd.

Department for Environment, Food and Rural Affairs, 2007. Local Environmental Enforcement – Guidance on the use of Fixed Penalty Notices. DEFRA Publications.

Department for Environment, Food and Rural Affairs, 2006. Nuisance Parking Offences and Abandoned Vehicles. DEFRA Publications.

Babergh District Council, 2007. Corporate Plan, 2007/08.

Babergh East Local Strategic Partnership. Community Plan for Babergh East.

Western Suffolk Local Strategic Partnership, 2006. Making Life Better, Community Strategy 2006 to 2016.

Babergh Crime and Disorder Reduction Partnership, 2005. Creating a Safer, Stronger Suffolk, Crime and Disorder Reduction Partnership Strategy, 2005-2008.

Cabinet Office, 1998. Enforcement Concordat. Cabinet Office.

Office of the Deputy Prime Minister, 2002. Living Places: Cleaner, Safer, Greener Communities and Local Government Publications.

Crime and Disorder Act 1998, Chapter 37. The Stationery Office Ltd.

Police Reform Act 2002, Chapter 30. The Stationery Office Ltd.

H M Government, 2005. Together We Can Action Plan. Civil Renewal Unit.

COI on behalf of the Respect Task Force (based in the Home Office), 2006. Respect Action Plan. Respect Task Force.

Anti-social Behaviour Act 2003, Chapter 38. The Stationery Office Ltd.

Police and Justice Act 2006, Chapter 48. The Stationery Office Ltd.

Audit Commission, 2007. CPA – the Harder Test Framework for 2007, Single Tier and County Councils. Audit Commission Publications.

Babergh District Council, 2002. Common Enforcement Policy.

Police and Criminal Evidence Act 1984, Chapter 60. The Stationery Office Ltd.

Criminal Procedure and Investigations Act 1996, Chapter 25. The Stationery Office Ltd.

Regulation of Investigatory Powers Act 2000, Chapter 23. The Stationery Office Ltd.

Race Relations Act 1976, Chapter 74. The Stationery Office Ltd.

Race Relations (Amendment) Act 2000, Chapter 34. The Stationery Office Ltd.

Human Rights Act 1998, Chapter 42. The Stationery Office Ltd.

Environment Agency and Local Government Association, 2005. Working Better Together Protocol Series, Protocol 6, Fly-Tipping and Illegal Waste Activities.

Suffolk Local Authorities and Environment Agency, 2007. Suffolk Fly-Tipping Protocol.

Babergh District Council, 2006. Refuse and Recycling Services, Policy Document.

Babergh District Council, 2006. Policy Statement on Abandoned and Nuisance Vehicles.

Directive of the Council of 18 September 2000 on End of Life Vehicles. Directive 2000/53/EC.

Environmental Protection Act 1990, Chapter 43. The Stationery Office Ltd.

Noise Act 1996, Chapter 37. The Stationery Office Ltd.

Street Litter Control Notices (England) (Amendment) Order 2007. S.I. No. 1524. The Stationery Office Ltd.

Department for Environment, Food and Rural Affairs, 2006. Code of Practice on Litter and Refuse. DEFRA Publications.

Refuse Disposal (Amenity) Act 1978, Chapter 3. The Stationery Office Ltd.

Babergh District Council, 1997. Babergh District Council (Fouling of Land) Order 1997.

Dogs (Fouling of Land) Act 1996, Chapter 20. The Stationery Office Ltd.

Town and Country Planning Act 1990, Chapter 8. The Stationery Office Ltd.

Town and Country Planning (Control of Advertisements) (England) Regulations 2007 S.I. No. 783. The Stationery Office Ltd.

Babergh District Council, 2006. Babergh Local Plan Alteration No. 2, 2006.

Local Government Act 1972, Chapter 70. The Stationery Office Ltd.

Highways Act 1980, Chapter 66. The Stationery Office Ltd.

Criminal Damage Act 1971, Chapter 48. The Stationery Office Ltd.

Licensing Act 2003, Chapter 17. The Stationery Office Ltd.

Wildlife and Countryside Act 1981, Chapter 69. The Stationery Office Ltd.

Crown Prosecution Service, 2004. The Code for Crown Prosecutors. CPS Communications Branch.

Home Office Circular 30/2005, Cautioning of Adult Offenders

Babergh District Council, 2005. Guidance on Authorisation under the Regulation of Investigatory Powers Act 2000 (RIPA).

Health and Safety at Work etc. Act 1974, Chapter 37. The Stationery Office Ltd.

Environment Act 1995, Chapter 25. The Stationery Office Ltd.

Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2006, S.I. No. 783. The Stationery Office Ltd.

Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2006, S.I. No. 1334. The Stationery Office Ltd.

Office of the Deputy Prime Minister, 2005. Best Value Performance Indicators 2005/06: Guidance Document. ODPM Publications.

Department for Environment, Food and Rural Affairs, 2007. Flycapture: The National Fly-tipping Database:
www.defra.gov.uk/environment/localenv/flytipping/flycapture.htm.

APPENDIX I

List of Consultees

All Members of Babergh District Council
All Parish and Town Councils
Suffolk County Council
Suffolk Constabulary
East, Central and West Babergh Safer Neighbourhood Teams
Babergh Crime and Disorder Reduction Partnership
Babergh East Local Strategic Partnership
Western Suffolk Local Strategic Partnership
Suffolk Youth Offending Service
The National Probation Service (Suffolk Probation Area)
Environment Agency
Hadleigh Chamber of Commerce
Sudbury Chamber of Commerce
Suffolk Chamber of Commerce

APPENDIX II

Babergh District Council Refuse and Recycling Services Policy Document (Adopted 9 March 2006)

Babergh District Council is the designated Waste Collection Authority (WCA), responsible for the collection of household and municipal waste from properties within its geographical area.

A range of services are offered in the discharge of this responsibility

Domestic Residual Waste Collection	Black bins or sacks
Domestic Dry Recyclables Collection	Blue bins or pink sacks
Bulky Item Collection	Chargeable
Special Collections (Larger items)	Chargeable – price by quotation
Hazardous Household Waste Collection	Via Suffolk County Council
Clinical Waste Collection	Yellow bin
Other Domestic Waste (for which a collection charge can be made)	Chargeable e.g. Schools, Village Halls, Churches etc.
Garden Waste Collection	Brown bins (chargeable) Bulk Bags (chargeable) Sack Collection (chargeable)
Community Recycling Centres	Banks
Trade Waste Collection	Chargeable
Litter Bin and Dog Waste Bin Collections	Chargeable
Fly-tipping Clearance	

1 Domestic Refuse Collection

The Council operates a ‘Twin Bin’ waste collection scheme.

The majority of domestic properties in the District have two 240 litre wheeled bins for the collection of their waste:

- A Blue bin for dry recyclable material.
- A Black bin for residual waste

There are some exceptions to this bin allocation – see paragraph 1.3 and 1.4 for more details:

A weekly collection service is provided – residual waste and recyclable materials on alternate weeks. Residual waste is much heavier than recyclable materials. In order to balance weekly weights of collected material and therefore numbers of collection vehicles required, the District is split into ‘Yellow’ or ‘Blue’ weeks for particular material collection. Collection days may vary during the period of a public holiday. Householders are informed of the specific arrangements over the Christmas period and of any other exceptional changes using local media.

Householders are required to present their appropriate bin at the boundary of their property or nearest point to a public highway by 7.00 a.m. on the specified collection day.

For details of what materials should be placed in each bin, please refer to Appendix 1.

1.1 Black (Residual Waste) Bins

In 1988, for a number of Environmental and Health and Safety reasons, the Council introduced wheeled bin collection system, replacing a wide range of containers previously supplied by householders. To enable every household to meet the requirements of the scheme, bins were issued to each property in the area and became the property of the householder.

Owners of properties that do not currently have a black residual bin (e.g. new properties) are responsible for purchasing a wheeled bin for the property. These will be made available at a subsidised price as may be agreed from time to time by the Council. (See Appendix 2.)

1.2 Blue (Recyclable Material) Bins

In response to Government recycling targets a separate collection of dry recyclable materials was introduced in 2000. In 2003-04, blue bins were issued to each property. The blue recycling bin was provided free of charge, but the bin remains the property of Babergh District Council. Smaller 120 litre blue bins are available on request.

Householders may request changes to the sizes of their bin(s) and an appropriate charge may be made. See Appendix 2 for current costs.

1.3 Replacement of Wheeled Bins

The householder is responsible for purchasing a replacement black bin should theirs be damaged or go missing. This is in accordance with section 46 of the Environmental Protection Act 1990.

However should any kind of bin be damaged or lost at the time of collection, the contractor is responsible for replacing this bin at no charge to the resident. Blue bins will be replaced free of charge should they be damaged or go missing.

1.4 Additional bins

These may be made available to households of 6 or more people and/or in exceptional circumstances at the discretion of the Head of Environmental Services. Current policy is to issue, in the first instance, an additional 120 litre blue bin for recyclable material at no charge. If there is further requirement then a 120 litre bin may be issued at the discretion of the Council, however payment for this bin is the responsibility of the resident. See Appendix 2 for current charges.

1.5 Approved Sack Collection

The supply of black sacks and pink bags will be made to those properties, which are approved as being unable to accommodate wheeled bins (currently approximately 910 properties are on the approved sack list) and, in exceptional circumstances and at the discretion of the Head of Environmental Services, certain properties having a residual bin will be provided with recycling sacks for the collection of dry recyclable materials. The alternate week collection cycle will apply. (NB *The Council will not maintain a collection service to properties presenting bags for collection unless on the approved list.*)

1.6 Collect and Return Service

At the discretion of the Head of Environmental Services, a 'collect and return service' may be provided on request for those physically impaired from placing their refuse at the appropriate place, and there being no other able bodied member in the household.

2 Other Domestic Waste Collection Services

2.1 Bulky Domestic Waste Collection Service

This allows up to five domestic items, such as furniture, carpets and white goods (fridges, freezers, washing machines, cookers etc. – only one freezer/fridge per five items) or ten sacks of waste including garden waste (which will not be composted) to be removed. The aim is to collect within 10 days of receipt of payment. See Appendix 2 for pricing schedule.

2.2 Special Collections Service

This accommodates the collection of larger item(s) that are not included in the bulky collection service. The collection contractor will provide a quotation on request.

2.3 Hazardous household waste

Arrangements may be made through the Council, for the collection and appropriate disposal of certain hazardous wastes, (i.e. solvent based paints, solvents and garden chemicals). These wastes are assessed by the Waste Disposal Authority (Suffolk County Council) prior to their removal and disposal by a licensed carrier. Collection costs are charged to Babergh District Council.

2.4 Clinical waste

Arrangements can be made through the Council for the collection of clinical waste. The majority of clinical waste generated from domestic premises is low grade, e.g. incontinence pads and these can be safely disposed of in the residual (black) bin, provided the waste is double wrapped in plastic. Where bin capacity is a problem, an additional bin may be provided on an alternate weekly basis. This can be arranged through the Council.

For higher-grade clinical wastes, that have arisen due to medical treatment, residents should seek disposal advice from their local Health Visitor or Primary Care Trust. The Council may be able to collect higher grade clinical waste where the amount produced is less than 80 litres per week (approximately 4 full carrier bags). The Primary Care Trust should collect volumes of high-grade clinical waste in excess of 80 litres.

2.5 Village halls, Churches etc

These types of premises are classified as domestic waste for which a charge can be made. In order to encourage recycling, one 240 litre bin for residual waste and one 240 litre blue bin for recyclate both to be emptied on an alternate week frequency will be provided with no collection charge.

Provision and collection of additional or larger bins to be charged at pro rata domestic rate (i.e. no disposal charge) provided the premises remains on alternate week collection frequency.

Premises requiring a weekly collection to be charged at an appropriate trade rate for each additional week that collection needs to be undertaken by a trade refuse collection vehicle, (this will include the cost of disposal).

2.6 Schools

These types of premises are classified as domestic waste for which a charge can be made.

Schools participating in the TwinBin alternative week collection scheme are only charged at pro rata domestic rate (i.e. no disposal charge) for a fortnightly collection of the residual wheeled bins. There is no collection charge for the recyclate bins.

Schools remaining on a weekly collection to be charged at an appropriate trade rate for each additional week that collection needs to be undertaken by a trade refuse collection vehicle, (this will include the cost of disposal).

3 Additional Recycling Facilities

3.1 Garden Waste

3.1.1 Home composting

Through a subsidised scheme householders are encouraged to purchase home compost bins. These may be obtained at a reduced price from Blackwall Ltd, the Council's appointed Contractor for supply.

For those that do not want to compost at home, there are a number of collection services available:

3.1.2 Garden Waste Collection Service

This service is a fortnightly collection of garden waste using 240 litre brown bins. Collected material is composted. The service involves a minimum of 24 collections per year on a chargeable basis. Current prices are detailed in Appendix 2. Bins remain the property of Babergh District Council. *(NB Charge reduced for those on certain benefits.)*

3.1.3 Bulk Bags

These are used for large garden clearance jobs. The service involves the delivery and collection of a Bulk Bag for garden waste only (approx 1000 litres). Collected material is composted. Current prices are detailed in Appendix 2. *(NB Charge reduced for those on certain benefits.)*

3.1.4 10 sacks of garden refuse

Up to 10 sacks of garden refuse per occasion may be collected. Collected material is not composted because it is not possible to gauge levels of contamination. Current prices are detailed in Appendix 2.

3.2 Other Materials

In addition to the Blue Bin recycling scheme, the following facilities are available for recycling a range of materials:

3.2.1 Household Waste and Recycling Centres

Use can be made of 18 Suffolk County Council Household Waste and Recycling Centres with 5 in or near to the District. Sites are open 7 days a week and can be used for the disposal of larger items of domestic waste including green waste, which is composted. These sites are not available for trade or commercial use.

3.2.2 Community Recycling Centres - 'Bring Sites'

These are for the recycling of glass, paper, cans and textiles. These are often operated to the financial advantage of the community with collections undertaken by a number of different organisations. There are over 100 of these sites across the District. Householders are encouraged to continue to use these facilities, especially for glass and textiles, as paper and cans can be placed in the blue bin.

4 Other Wastes

4.1 Trade Waste Service – ‘Babergh Trade’

A chargeable collection from commercial properties, including mixed commercial and domestic premises is available on an individual contract basis. This includes:

- A suitable collection frequency (normally weekly or fortnightly),
- Hire of containers (principally 1100 and 660 litres),
- Cost of Collection
- Cost of Disposal
- Administration Cost
- Renewable contracts payable by Direct Debit on a half-yearly basis.

4.2 Litter and Dog Waste Bins

Babergh District Council will, at the request of Town and Parish Councils purchase and arrange the installation at suitable locations, of litter and dog waste bins. Costs are recharged to the Town or Parish Council. Our contractors will empty the bins on a regular basis and the costs charged to the Town or Parish Council.

4.3 Fly-Tipped Waste

This waste is collected by the Council’s litter patrol service. All efforts are made to identify those responsible for tipping such waste – e.g. looking for presence of identifying literature etc. The Council will take enforcement action against anyone found guilty of fly-tipping. For enquiries and details about the all refuse services listed above call: -

Refuse Hotline 0800 0185989

APPENDIX 1

WHAT GOES WHERE?	
<p style="text-align: center;">BLUE BIN YES PLEASE</p> <p>Plastics (no plastic bags or film)</p> <p>PET (Clear and Coloured) Fizzy drinks bottles, Squash bottles Mineral water bottles (clear and those with a blue tint), Cooking oil bottles</p> <p>HDPE (Natural and coloured) Milk bottles Fresh fruit juice plastic containers Washing Up liquid bottles Detergents, Fabric Conditioners Bleach and household cleaning fluids Hair care, Bath and shower bottles</p> <p>PVC (Clear and Coloured) We also take other plastics such as yoghurt pots, margarine and spread pots and clean food containers. Please remove lids from plastic bottles but still place them in the blue bin.</p> <p>Paper – (no shredded paper please) Newspapers and Magazines Directories and Yellow Pages Junk Mail, Envelopes Wrapping paper, Catalogues and Books (but separate from hard covers first)</p> <p>Cardboard - Boxes, Cartons and Packaging (Large boxes should be folded flat and left beside the Blue Bin)</p> <p>Metal Tins and Cans (steel and aluminium) Food tins e.g. baked beans, tuna, Drink cans, Pet food cans, metal shoe polish tins</p> <p>Aluminium Foil – e.g. Milk bottle tops Clean food and takeaway containers</p>	<p style="text-align: center;">BLACK BIN YES PLEASE</p> <p>Food Waste (securely wrap it or bag it first)</p> <p>Expanded Polystyrene packing and food containers</p> <p>Plastic carrier bags</p> <p>Plastic food wrapping</p> <p>Cling film</p> <p>Food containers with hard baked-on food</p> <p>Crisp packets</p> <p>Waxed containers (juice or milk)</p> <p>Nappies (bagged/wrapped)</p> <p>Video Tapes and Cassettes</p> <p>Large Plastic Toys or Broken Garden Furniture</p> <p>Pet waste (wrapped and/or bagged) Cardboard Egg Boxes (they can be composted)</p> <p>Shredded paper – excellent for your compost bin</p> <p>Vacuum cleaner contents (if you have wool carpets these can be composted)</p> <p>Glass – Please use your local glass banks wherever possible</p> <p>Aerosols (recycle in an aluminium bank)</p> <p>Clothing, textiles and shoes – If these cannot be passed on to friends for re-use, try a local charity shop, doorstep collection, jumble sales or your local textile bank.</p> <p>Wood – this can be taken to your local Household Waste and Recycling Centre.</p>

**APPENDIX 2
PRICING SCHEDULE – 2007/8**

All charges are reviewed annually.

BIN DELIVERY CHARGE (all bins – one off charge) £10.00

RESIDUAL/BLACK BINS

New 240/120 litre black bin £30.00

Second hand 240/120 black bin (depending on availability) £20.00

Upgrade from 120 litre to 240 litre black bin £25.00

Downgrade from 240 litre to 120 litre black bin £5.00

Removal from ‘Approved Sack List’
and provision of blue and black bins Free of Charge

BULKY ITEMS

Up to five household items £20.00

SPECIAL COLLECTIONS

Quotation provided on request based on contractor’s rates (revised annually in accordance with RPI)

BROWN BIN SCHEME

Annual charge £30.00

£15.00 to those on certain benefits*

BULK BAG

Cost per occasion £28.00

£14.00 to those on certain benefits*

BAG COLLECTION

Cost for up to 10 sacks £16.00

HOME COMPOSTING BIN

220 litre Ecomax bin £8.00

330 litre Ecomax bin £10.00

250 litre Komp bin £20.00

TRADE WASTE

Quotations available - dependent on size and frequency of collection.

* **Benefits that attract price reductions are:** Housing, Council Tax, Job Seekers, Pension Guarantee Credit.

APPENDIX 3

Bin Contamination Enforcement Procedure

1. *A sticker will be attached to the recycle bin of perpetrating householders, either by the refuse collection crew or by a Recycling Officer (RO).*
 - *In the first instance this will be coloured YELLOW and will inform the resident that their bin contained inappropriate material for recycling (Amber list materials) that may result in the bin not being collected in future. A tick box showing the material type and offence will be included. On this occasion though the bin will still be emptied.*
 - *Where the instructions outlined in the YELLOW sticker has been ignored, or where red list material is found in the bin, a RED sticker will be issued to the resident informing them that their bin has not been collected due to unsuitable material or bagged material.*
2. *Following the issuing of the two differently coloured stickers and a further offence, an official letter will be written specifically to the re-offending householder. This will again inform them of the reasons why their bin has not been collected and that the offending materials/practice must be removed or cease, for it to be collected in future. This will be followed up by a visit by an authorised representative of the Council who will serve a Section 46 notice.*
3. *Further contravention will be subject to a Fixed Penalty Fine (see (5) below).*
4. *On each occasion when a bin has not been emptied the householder will be given the option of removing the offending material and the bin will be collected on the next scheduled visit. The Council will need to be contacted to make arrangements for the handling of recyclable materials in the interim. Alternatively, for a fee of £10 the bin will be collected as a residual waste bin.*
5. *With effect from 1st April 2006 the Council will have the power to issue Fixed Penalty Notices (default value £100 but suggested value £80) to people who persistently contaminate their recycle bin.*

Examples of Bin Warning/Notice Stickers (Amended June 2007)

We have emptied your bin today but wish to remind you that:

- Items that are in plastic bags/sacks not issued by the Council or that are dirty are not accepted.
- Black bags left at the side of your bin will not be collected

The following items cannot be recycled through this scheme*

- Polystyrene
- Coat hangers/string/wire
- CDs/DVDs/videos/ audio tapes etc
- Aerosols
- Hard Plastic (e.g.toys/buckets/plant pots etc)
- Clothes/shoes/bedding
- Shredded paper
- Plastic bags/film
- Tissues/kitchen roll
- Waxed cartons/Tetra Paks
- Other _____

**Always place items in your recycling bin clean and loose. Continuing to place incorrect items in the bin will result in the bin not being emptied.*



For further information
please call:
0800 0185989



We have been unable to empty your bin today because:

- Items that are in plastic bags/sacks not issued by the Council or that are dirty are not accepted
- The bin is too heavy/overloaded

The following items cannot be recycled through this scheme*

- Food waste
- Clinical waste/Sharps
- Bagged Items
- Nappies
- Garden waste
- Pet waste
- Hazardous waste (i.e.paint)
- Glass
- Electrical items (i.e.kettles)
- Wood/Furniture
- Batteries
- Light bulbs
- Mobile phones
- Other _____

**Your bin will be emptied on your next scheduled collection but only if these items are removed. Alternatively you can contact us below.*



For further information
please call:
0800 0185989



APPENDIX III

Babergh District Council Policy Statement on Abandoned and Nuisance Vehicles Adopted 9 March 2006

1. The Purpose of the Policy

1.1 Babergh District Council can exercise a range of duties and responsibilities in relation to vehicles both as a statutory undertaker and as landlord and landowner. This policy provides a statement of intent as to how the Council's powers will be exercised and will serve to inform:

- Residents and visitors in Babergh
- Council Officers including Enforcement Officers
- Councillors
- The Council's Contractors
- Suffolk Police
- Suffolk County Council
- Legal representatives

1.2 The prime aims of the policy statement are:

- To inform of the Council's stance in respect of vehicles parked within the District.
- To ensure the decisions of the Council and its officers are consistent and transparent and in accordance with the Council's Enforcement Policy.
- To support the Council's actions when enforcing law for which it is responsible.
- To provide a basis on which the Council interprets its duties for the benefit of the public and the Courts.

1.3 ***Powers available to secure the removal of vehicles***

Power

Enforcement Agency

Refuse Disposal (Amenity) Act 1978

Duty to remove a vehicle from public and private land

Babergh DC

Power to dispose of a vehicle held in Local

Babergh DC

Authority custody.

Power to recover expenses for

Babergh DC

vehicle's removal/disposal/storage

Road Traffic Regulation Act 1984

*Power to remove vehicles illegally, obstructively,
dangerously parked or broken down*

Police

Power to remove unlawfully abandoned vehicles.

Police/Babergh DC

Power to recover expenses from removal,

Suffolk County Council

Disposal and storage

Removal and Disposal of Vehicles Regulations 1986

Power to require removal of vehicles from roads

Police

Power to remove burnt out and dangerous vehicles immediately

Police / Babergh DC

Local Government Act 2000

Power to remove a vehicle parked or stationed so as to

Babergh DC

Give rise to concern for public health, safety or environment

Clean Neighbourhoods and Environment Act 2005

Power to enforce offences relating to 'nuisance' vehicles (Vehicles for sale or being repaired on the highway)

Babergh DC

Power to impose 'Fixed Penalty Notices'

Babergh DC

2. Definitions

- 2.1 All definitions shall be as specified in the relevant legislation. However, in some cases it is necessary to provide the Council's interpretation of these definitions for clarity and consistency.
- 2.2 **'Abandoned'** means given up by the owner with no intention to recover or accept responsibility for a vehicle.
- 2.3 **'Abandoned vehicle'** is, for the purpose of this policy, one, which, in the opinion of the council, *appears* to have been abandoned. In interpreting this the Council will take into account
- The length of time the vehicle has been in its current position
 - The overall condition, age and appearance of the vehicle
 - The display of a valid tax disc (or SORN if on private land)
 - The presence of a number plate
 - Apparent roadworthiness
 - Security
 - Proximity of the vehicle to the registered address of the last registered keeper.
- 2.4 **'Owner'** will be presumed to be the 'last registered keeper' of the vehicle unless that person can provide evidence to the contrary
- 2.5 **'Person responsible'**; in the event that no other person is clearly identified, shall be the owner at the time when any offence was committed, unless that person can provide evidence to the contrary.
- 2.6 **'Vehicle'** is defined, for the purpose of this policy, as a mechanically propelled vehicle intended or adapted for use on roads, whether it is fit or unfit to be used as such. This also includes any trailer (including caravans) adapted for use as an attachment to a vehicle, and any chassis or body, with or without wheels, normally attached to a vehicle.

- 2.7 **‘Vehicle only fit for destruction’** is a description used in and affected by procedures specified under the Refuse Disposal (Amenities) Act 1978. It is for the Local Authority to define this description and this will be assessed on the fact and degree of the vehicle’s condition as identified in the definition of ‘abandoned vehicle’ above. The DVLA sets this limit as a vehicle worth less than £2000. Babergh District Council defines these vehicles as having a trade value of less than £2000 as defined in the Parker’s Price Guide (using the ‘good/average’ category in the guide).

3. Land to which the policy applies

- 3.1 The Council has a statutory duty to investigate reports of, and if satisfied they are abandoned, remove a vehicle from any location in the open air so long as the vehicle is easily accessible without excessive cost. (Refuse Disposal (Amenity) Act 1978, Removal and Disposal of Vehicle Regulations 1986.)
- 3.2 In practice, the power of the local authority applies to all roads, footways and open land adjacent to the highway including verges, public open spaces, parking bays, garage areas and car parks. The land upon which the vehicle has been abandoned does not have to be in public ownership, as the ‘land open to the air on at least one side’ definition will also apply to some land in private ownership.
- 3.3 The duty does not apply if the cost of removal from land would be unreasonably high.
- 3.4 The Council will only remove vehicles from private land with the written consent of the owner of the land, or on expiry of any Notice served upon the owner.
- 3.5 Where vehicles are parked or stationed inappropriately on other sites such as the highway, on private land or in any other circumstances not specified under the Council’s statutory duties or role as landowner described above, the Council will work in partnership with the Police, the County Council and other relevant agencies to secure the removal of such vehicles. In respect of persistent activities deemed inappropriate or giving rise to complaint the Council may use additional legislation (i.e. Clean Neighbourhoods Act 2005) to control such activities (i.e. vehicles stationed on the highway or verge for sale, the carrying out of vehicle repairs or the operation of other similar or related business activity.)

4. Removal of an abandoned Vehicle

- 4.1 The general procedure for the removal of an abandoned vehicle on public land (including highway) will be as follows:
- The vehicle’s details (make, model, location, registration number and other information relating to its condition) will be logged onto the Council’s database. The Police will be informed of the vehicle’s details.
 - The registration number will be checked on the DVLA database. The Registered Keeper so identified will be regarded by the Council as being responsible for the vehicle.

- The Registered Keeper, if identified, will be written to, to inform them of the fact that the vehicle has been reported as abandoned.
- On satisfying itself that the vehicle appears to be abandoned, an authorised Officer of the Council will visit and affix a Notice to the vehicle only in circumstances where this is considered appropriate and does not conflict with the Council's statutory duty of removal.
- Following expiry of any notice, the vehicle will be removed by the Council.
- The owner (Registered Keeper) will be informed in writing that the Council have the vehicle in their custody and will be invited to claim the vehicle within 7 days.
- The vehicle will be stored for a minimum of 7 days in order for the owner to make a claim. If unclaimed, the vehicle will be disposed of (subject to the Council's statutory obligations). The DVLA and Police will be informed.
- The Council will claim any statutory fees and approved charges from the last Registered Keeper as the owner or person responsible for the vehicle, unless that person can provide evidence to the contrary.
- Where it appears to the Council that a person has committed an offence in relation to the abandonment of a vehicle the Council may institute proceedings, including application of fixed penalty fine provisions.

5. Identification of owner

- 5.1 The Council will use its direct link to the DVLA database to identify the last registered keeper of any vehicle abandoned, which is carrying a GB registration mark.
- 5.2 The registration marks (if known) of all reported vehicles will also be passed to the Police in order to secure any information that may lead to the identification of the owner. All vehicles reported to the Council by the public will be reported to the Police to ensure that the vehicle is not subject to criminal investigation or other legitimate activity.
- 5.3 For the purpose of enforcement, and in the absence of any other information to the contrary, the Council will consider the last registered keeper to be the owner or person responsible for the vehicle. It will be for that person to provide evidence to the contrary.

6. Removal of vehicles

- 6.1 Once any notice of removal has expired, the vehicles will be removed on behalf of the Council. All untaxed vehicles will be destroyed 7 days after collection, if the owner does not register an interest in keeping them. Once a vehicle has been removed, the registered keeper will be contacted in writing to advise them that the vehicle has been removed and of any outstanding charges associated with this action. The registered keeper will be advised to contact the Council within 7 days of its removal date if they wish to re-claim the vehicle.
- 6.2 Vehicles which have no registered keeper with the DVLA or which do not display a registration mark may be destroyed immediately.

7. Costs

- 7.1 The Council has the right to refuse to remove a vehicle if the costs are unreasonably high.
- 7.2 Babergh District Council will always attempt to recover the costs of removal, disposal and storage from the last registered keeper of the vehicle.

8. Vehicles abandoned on Council Land

- 8.1 The Council may grant or refuse permission for persons to park or store vehicles on its own land. This may include Council owned Car Parks, some verges and areas of open space, service areas to commercial precincts and industrial estates. On its own land, generally, the Council will require persons to provide proof of ownership of a vehicle if requested, will require that the vehicle:
- displays a current road tax disc
 - be in a roadworthy condition
 - does not present a risk to public health, safety or the environment.
- 8.2 On land where the Council acts as Landlord, abandoned vehicles may be referred for removal under the instruction of an authorised officer, where they will be subject to the procedure outlined above (Paragraph 4.1)

9. Vehicles abandoned on Private Land

- 9.1 Where vehicles have been abandoned on private land, the Council is able to remove them, having served notice on the landowner of its intention to enter the land to remove the vehicle. A charge may be made for this service, which is the equivalent cost of surrendering a vehicle to the Council.
- 9.2 Where a landowner has reported that a vehicle has been abandoned on their land, the Council will inform them of the charge and adopt the following procedure:
- The landowner is required to write to the Council, giving authorisation for the Council to enter the land for the purpose of removing the vehicle,
 - S/he will state the details of the vehicle i.e. Registration number if known, make and description
 - Agree to be invoiced for the cost involved if appropriate.
 - The procedure outlined above (Paragraph 4.1) will then be followed.
- 9.3 Where a member of the public/person who is not the landowner reports a vehicle, a 15-day notice will be attached to the vehicle, informing the landowner of the Council's intention to enter his/her land to remove it. If a landowner can be traced s/he will be informed of the cost involved and if they have no objections to the Council entering the land the procedure outlined above (Paragraph 4.1) will be adopted

10. Dangerous Vehicles

- 10.1 Vehicles deemed to be dangerous by the Council may be immediately removed from land where the Council acts a landlord in order to meet its obligations under the Occupiers Liability Act. This applies only to land which the Council owns. On all other land a 24-hour notice may be affixed. The Council will act under powers defined in section 2 of the Local Government Act 2000.
- 10.2 Vehicles may be deemed dangerous if they exhibit one or more of the following characteristics:
- Parked so as to cause a potential obstruction to emergency vehicles
 - Parked on/near a junction
 - Parked in an area known for vandalism/arson and in such a condition so that the Council believes it may be a target
 - Leaking fuel
 - Smashed windows/glass
 - Vehicle unlocked and inside wrecked
 - Burnt out
 - Badly damaged.

11. Voluntary Surrender Scheme

- 11.1 The Council offers a voluntary surrender scheme for the removal and destruction of unwanted vehicles from residents of the district at a subsidised rate which may be reviewed annually (Refer to the Council's current 'List of Fees and Charges') To qualify for this scheme, those requiring the service must be resident in the district and the vehicle must be registered to their current address.

12. Return of removed vehicles

- 12.1 In the event that a person claims ownership of the vehicle, before releasing the vehicle the Council will request sight of at least two of the following:
- The vehicle registration document or log book
 - A valid Tax Disc or SORN
 - A valid certificate of insurance
 - A current or recent MOT certificate
 - A bill of sale or similar evidence of purchase which can be verified
 - Proof of ownership of land where vehicle is to be returned, or written permission from the owner of said land.
- 12.2 No vehicle will be returned to its owner before the payment of any fees or outstanding charges.

13. Out of Hours procedure

- 13.1 Vehicles reported out of hours will be logged by the out of hours answering service and dealt with at the earliest available opportunity during office hours. If a vehicle is thought to be dangerous or emergency removal required the Police will be contacted to remove the vehicle under their powers as stipulated in the Road Traffic Regulation Act 1984.

Version 1 - February 2006

APPENDIX IV

Babergh District Council (Fouling of Land) Order 1997

THE DOGS (FOULING OF LAND) ACT 1996
THE BABERGH DISTRICT COUNCIL DOGS
(FOULING OF LAND) ORDER 1997

The Babergh District Council (in this Order called "the Council") hereby make the following Order:

The land described in the schedule below being land in the area of the Council which is land to which the Dogs (Fouling of Land) Act 1996 ("the Act") applies, is hereby designated for the purpose of the Act.

This Order may be cited as the Babergh District Council Dogs (Fouling of Land) Order 1997 and shall come into force on 19 September 1997.

This Order makes it an offence if a dog fouls at any time on designated land for a person in charge of that dog at that time to fail to remove the faeces forthwith from the land.

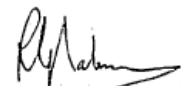
SCHEDULE

This Order applies to all land within the administrative area of Babergh District Council which is open to the air (including covered land which is open to the air on at least one side) and to which the public have access with or without payment subject to the exemptions contained in Section 1, sub-sections (2) (3) and (4) of the Act.

The Act does not apply to the following land or area:

- (a) Land comprised in or running alongside a highway with a speed limit of more than 40 mph
- (b) Land used for agriculture or for woodland
- (c) Rural Common Land
- (d) Land which is predominantly marshland, moor or heath
- (e) Land where a private Act confers powers for the regulation of the land. The person entitled to exercise those powers may by notice in writing given to the Local Authority (Babergh District Council) exclude the application of the Order as defined in Section 1 of the Act.

The COMMON SEAL of the said)
 BABERGH DISTRICT COUNCIL)
 was hereunto affixed this 14th)
 day of August)
 1997 in the presence of)


 Director of Administration

Babergh District Council
Offences for which Fixed Penalties are available

Offence	Legislation*	Who can issue FPN's*	Legislative options for setting level of fines		Babergh DC/Suffolk adopted amounts		Qualifying functions for which receipts may be used*
			Amount	Min. amount with early payment discount	Amount	Amount with early payment discount	
Litter	EPA 1990, S87(1)	Authorised officers of Litter Authorities (including BDC and Parish Councils or their contractors); PCSO's; Persons accredited under Community Accreditation Schemes	Can be set locally between £50 and £80. Default £75	£50	£80	£60	Litter related functions under EPA 1990, Part 4 Graffiti and fly-posting functions under ASBA 2003, S43 Dog Control Orders functions under CNEA 2005, Chapter 6
Street litter control notices and litter clearing notices	EPA 1990, 94(8) and 92C(2)	Authorised officers of Principal Litter Authority (including BDC)	Can be set locally between £75 and £110. Default £100	£60	£80	£60	Litter related functions under EPA 1990, Part 4 Graffiti and fly-posting functions under ASBA 2003, S43 Dog Control Orders functions under CNEA 2005, Chapter 6
Unauthorised distribution of literature on designated land	EPA 1990, Sch. 3A(1), para. 1(1) and (2)	Authorised officers of Principal Litter Authority (including BDC or their contractors)	Can be set locally between £50 and £80. Default £75	£50	£80	£60	Litter related functions under EPA 1990, Part 4 Graffiti and fly-posting functions under ASBA 2003, S43 Dog Control Orders functions under CNEA 2005, Chapter 6
Failure to produce a waste transfer note	EPA 1990, S34A(2)	Authorised officers of Waste Collection Authority (BDC) and Environment Agency	Fixed at £300	£180	£300	£180	Functions, including enforcement concerning offences, under CP(A)A 1989, S5
Failure to produce waste carrier registration documents	CP(A)A 1989, S5B(2)	Authorised officers of Waste Collection Authority (BDC) and Environment Agency	Fixed at £300	£180	£300	£180	Functions, including enforcement concerning offences, under EPA 1990, Part 2

Offence	Legislation*	Who can issue FPN's*	Legislative options for setting level of fines		Babergh DC/Suffolk adopted amounts		Qualifying functions for which receipts may be used*
			Amount	Min. amount with early payment discount	Amount	Amount with early payment discount	
Offences in relation to waste receptacles	EPA 1990, S46 and 47	Authorised officers of Waste Collection Authority (BDC)	Can be set locally between £75 and £110. Default £100	£60	£80	£60	Functions, including enforcement concerning offences, under EPA 1990, Part 2
Abandoning a vehicle	RD(A) 1978, S2	BDC authorised officers	Fixed at £200	£120	£200	£120	Functions under RD(A)A 1978 Functions under RTRA 1984, Sections 99 to 102 Enforcement of CNEA 2005, S3-4
Nuisance vehicles	CNEA 2005, S3(1) and 4(1)	BDC authorised officers	Fixed at £100	£60	£100	£60	Functions under RD(A)A 1978 Functions under RTRA 1984, Sections 99 to 102 Enforcement of CNEA 2005, S3-4
Dog Control Orders	CNEA 2005, S55	Authorised officers of BDC and parish/town councils (or their contractors); PCSO's; Persons accredited under Community Accreditation Schemes	Can be set locally between £50 and £80. Default £75	£50	£80	£60	Litter related functions under EPA 1990, Part 4 Graffiti and fly-posting functions under ASBA 2003, S43 Dog Control Orders functions under CNEA 2005, Chapter 6
Fly-posting and graffiti	ASBA 2003, S43	Authorised officers of BDC or their contractors; PCSO's; Persons accredited under Community Accreditation Schemes	Can be set locally between £50 and £80. Default £75	£50	£80	£60	Litter related functions under EPA 1990, Part 4 Graffiti and fly-posting functions under ASBA 2003, S43 Dog Control Orders functions under CNEA 2005, Chapter 6
Failure to nominate key-holder within an Alarm Notification Area	CNEA 2005, S75(2)	BDC authorised officers or their contractors	Can be set locally between £50 and £80. Default £75	£50	£80	£60	Functions under CNEA 2005, Chapter 1, Part 7 Functions under Noise Act 1996 Functions under EPA 1990, S79-82, in connection with statutory nuisances and noise

Offence	Legislation*	Who can issue FPN's*	Legislative options for setting level of fines		Babergh DC/Suffolk adopted amounts		Qualifying functions for which receipts may be used*
			Amount	Min. amount with early payment discount	Amount	Amount with early payment discount	
Noise from dwellings	Noise Act 1996, S4	BDC authorised officers	Can be set locally between £75 and £110. Default £100	£50	£80	£60	Functions under Noise Act 1996 Functions under CNEA 2005, Chapter 1, Part 7 Functions under EPA 1990, S79-82, in connection with statutory nuisances and noise
Noise from licensed premises	Noise Act 1996, S4	BDC authorised officers	Fixed at £500	No discount	Fixed at £500	No discount	Functions under Noise Act 1996 Functions under CNEA 2005, Chapter 1, Part 7 Functions under EPA 1990, S79-82, in connection with statutory nuisances and noise

*List of acronyms

ASBA 2003 Anti-Social Behaviour Act 2003

BDC Babergh District Council

CNEA 2005 Clean Neighbourhoods and Environment Act 2005

CP(A)A 1989 Control of Pollution (Amendment) Act 1989

EPA 1990 Environmental Protection Act 1990

PCSO Police Community Support Officer

RD(A)A 1978 Refuse Disposal (Amenity) Act 1978

RTRA 1984 Road Traffic Regulation Act 1984