

# **Managing the Local Environment**

## Flintshire County Council's Environmental Enforcement Policy

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## **1. Background**

- 1.1 Flintshire County Council and its Statutory Partners have a responsibility to keep our streets clean and tidy, collect residents' refuse and recycled waste material, maintain and improve the quality of our public spaces and take action against those who act in a way that may affect these.
- 1.2 The local environment influences our quality of life and also impacts on our experience whether living, visiting or working within the County.
- 1.3 Whilst Flintshire County Council has a responsibility for maintaining a clean environment for all, our community also has an integral role and this policy recognises the need for partnership working in order to achieve a safer, cleaner and greener County.
- 1.4 Enforcement plays a vital role in maintaining a clean and safe environment by providing information and advice to individuals regarding their rights and citizenship duties. Where individuals and/or businesses fail to recognise and change their negative behaviour, enforcement ensures that they are made accountable for their actions through legislative processes.
- 1.5 The Clean Neighbourhoods and Environment Act 2005 saw the introduction of new powers for local authorities to help tackle environmental crime. The Act introduced effective powers and tools to tackle poor environmental quality and antisocial behaviour such as litter, graffiti, waste collections and dog control orders. This policy sets out how we use the powers in our current enforcement work to ensure an effective, clear and consistent approach to tackling environmental crime across Flintshire.
- 1.6 Across Flintshire County Council there are a number of departments that contribute to providing a clean and safe environment.

## **2. Aims and Objective of the Policy**

- 2.1 Our aim is to improve the local environmental quality by reducing environmental crime across the County
- 2.2 To meet this aim, the policy will seek to achieve the following objectives:
  - To raise awareness of good waste management, litter control, dog control, highway obstructions and other local environmental quality issues to everyone across the County
  - To educate and work in partnership with residents, businesses and visitors around their role and responsibilities in terms of good waste

management, litter control, dog control, highway obstructions and other local environmental quality issues

- To undertake any enforcement action as necessary, in a reasonable, equitable and proportionate manner.
- To take all enforcement decisions in a proportionate manner and strive for high standards of consistency.
- To take all enforcement action without education and advice only when the severity of the situation dictates.

2.3 These objectives reflect Flintshire County Council enforcement principles, based upon national standards which state that good enforcement practice should have clear standards, be carried out in an open, helpful manner, have a proportionate and consistent approach and deal effectively with any complaints about the service.

This approach will ensure that:

- Enforcement is carried out in a fair and equitable way;
- We assist business and others in meeting their own legal obligations;
- We focus on prevention rather than just cure;
- We take firm action against those that flout the law;
- That all allegations of enforceable offences by delegated officers are properly recorded;
- That the policy underpins other National, Regional and Local strategies such as the Flintshire Green Space Framework Strategy.
- The proper investigation of all offences enforceable within the limits of the statutory requirements of the following statutes that may have been amended from time to time including:-

- (i) Environmental Protection Act 1990
- (ii) Refuse Disposal (Amenity) Act 1978
- (iii) Highways Act 1980
- (iv) The Traffic Management act 2004
- (v) Civil Enforcement of Road Traffic Contraventions Regulations 2013
- (vi) Town and Country Planning Act 1990
- (vii) The Antisocial Behaviour, Crime and Policing Act 2014
- (viii) Clean Neighbourhoods and Environment Act 2005
- (ix) Education Act 1996
- (x) Criminal Justice and Police Act 2001
- (xi) Various other Acts relating to Highways and the Environment

### **3. Scope of Policy**

- 3.1 This policy sets out the standard and guidance that will be applied by Flintshire County Council, acting in their role as regulator and enforcement agency across the range of relevant legal powers and duties.
- 3.2 This policy applies to all waste and local environmental quality issues experienced across Flintshire on both public and private land. These issues affect the environmental, social and economic wellbeing of our County and have a major impact on the quality of life of those who live, work or visit.
- 3.3 All of the issues highlighted in this Policy are of great importance in creating and maintaining a clean and safe Flintshire. We seek, however, to prioritise work on certain issues to approach enforcement work in a structured way, targeting the most prevalent issues affecting Flintshire's environment.

The current priority areas for the Policy driven by the elements described are;

- Domestic refuse bags dumped on streets outside of collection times
- Commercial waste bags left on streets outside of collection times
- Fly tipping and illegal dumping of waste on public and private land
- Littering in town centre areas and other highways
- Graffiti on public infrastructure and in footpath areas
- Irresponsible dog ownership
- Sites detrimental to the amenity of a neighbourhood
- Abandoned Vehicles
- Obstacles / Hazards in the highway and on Rights of Way
- Enforcement within public space addressing issues which reduce our living, working and environmental quality.

### **4. Main Focus Areas:**

#### **4.1 Litter**

1. It is illegal to purposely drop litter. The Environmental Protection Act 1990 (Section 87) states that litter is anything purposely dropped, thrown, left or deposited, in any place open to the air, including litter thrown from the street into a private garden or watercourse. Litter mainly consists of synthetic materials often associated with smoking, eating and drinking, including cigarette butts and chewing gum.

2. Flintshire County Council provides litter bins at selected busy locations along the highway and open spaces across the County. In order to keep Flintshire a clean place, these bins should be used for litter and dog fouling material or the material should be taken home for appropriate disposal.
3. We will aim to reduce the level of littering by undertaking general litter education and awareness raising across the County as well as issuing Fixed Penalty Notices (FPNs) to those people who choose not to follow the advice.
4. Where appropriate, authorised officers will use Fixed Penalty Notices (FPNs) to highlight that littering is regarded as unacceptable behaviour in Flintshire and along with other agencies such as North Wales Police, the Council will take a zero tolerance approach, if the authorised office is sure the litter was dropped deliberately.
5. The distribution of free literature can have a great impact on an area if the printed material is dropped, so creating litter, and by the distribution method leading to possible highway obstructions. Powers in the Clean Neighbourhoods and Environment Act 2005 (CNEA) enable us to introduce a consent system to permit businesses and individuals to distribute free literature in designated areas within the County.
6. Whilst traders cannot have control over their customers, the items they sell will often end up as litter, or their customers enjoyment of their premises will lead to litter such as cigarette butts at licensed pubs. We aim to work in partnership with business to minimise the impact of litter from shops. The introduction of Street Litter Control Notices will allow us to serve a legal notice on an establishment that contributes to an ongoing litter problem in an area. FPN powers may be used if the conditions of the Notice are breached.
7. Individuals using commercial premises and contributing to litter (such as smoking outside and discarding cigarette ends or fast food wrappers on the floor) will also be issued with a FPN.
8. Should individuals be witnessed throwing litter from cars, including cigarette ends, officers will note the registration number of the vehicle and the registered keeper of the vehicle will be issued with a FPN for the offence.
9. A FPN may be used as a means of disposing of the offence by means other than prosecution. It is the offender's opportunity to avoid a conviction if they pay in full a penalty instead. Non-payment or partial payment of a penalty notice is generally not an offence in its own right and should a recipient not pay in full the penalty offered within the timescale specified, prosecution may be necessary for the actual offence.

## 4.2 Waste

Flintshire is a Waste Collection Authority and has a duty to provide a household waste collection service which it does through the Streetscene and Transportation portfolio.

### 1. Residential Waste

- a. Black rubbish bins will be emptied on the same day of the week every fortnight, alternating with the brown garden waste bin.
- b. Food waste will be collected on the same day every week along with the recycling (blue box, blue bag and white sack).
- c. The only change to collection dates will be around the Christmas period (other bank holidays do not affect collections).
- d. Residents are asked to make sure that the wheeled bins are presented at the kerbside with the bin lid closed by 7am on their collection day, to ensure collection. If necessary and if it is safe to do so, bins can be placed out for collection the night before.
- e. All wheeled bins, food containers and recycling boxes/bags must be placed:
  1. At the boundary or curtilage of the property with the public highway, without causing obstruction  
or
  2. At a designated collection point in the vicinity of the property which will be notified to the resident in advance.
- f. Containers may be placed on the driveway or footpath leading to the property however they must be reachable by the collection teams without the need for them to enter on the property to collect the container. No containers should be presented behind closed gates. The collection point for householders with long private drives will be the point where their drive meets the road/highway.
- g. In order to ensure that Recycling Targets are achieved, excess or side waste should not be left on collection day. The crew will note the location of any side waste that is presented and report the occurrence to Enforcement Officers in order who will issue a first warning letter to the property. If side waste continues to be presented a second notice will be served on the property and if side waste is evidence again the Authority will take enforcement action against the property through the use of a Fixed Penalty Notice.

- i. Bulky household items can be disposed of in several ways.
  - 1. By the specific Bulky collection service (charged)
  - 2. At the Council's Household Recycling Centres
- j. Our roadside collection team will be unable to collect these items as part of the normal domestic waste collection service and residents should refrain from putting these out on collection day.
- k. Information on how these items can be collected, as well as other frequently asked questions in relation to residential waste can be found by contacting;
- l. Where residents require to dispose of an item of waste that is not collected by the Authority they must use approved, registered, contractors under the waste Duty of Care regulations. Residents must be sure that their waste is transferred to a company authorised to take it and who will transport, recycle or dispose of it safely and compliantly. This transfer of waste must be officially recorded on a waste transfer note. Residents will receive a waste transfer note from their authorised waste company and this record must be kept and stored, for 2 years and must be produced if asked by an authorised officer.
- m. Failure to produce a waste transfer note can result in a FPN being issued by an Authorised Enforcement Officer.

Streetscene Contact Centre – 01352 701234 or on the Councils website  
[www.flintshire.gov.uk/streetscene](http://www.flintshire.gov.uk/streetscene)

### **4.3 Commercial Waste**

- 1. Businesses are under a duty to ensure that their waste is stored, presented and disposed of in accordance with the waste Duty of Care regulations. This duty states that businesses must take all reasonable steps to store and dispose of their waste in a compliant way.
- 2. Businesses must be sure that their waste is transferred to a company authorised to take it and who will transport, recycle or dispose of it safely and compliantly. This transfer of waste must be officially recorded on a waste transfer note. Businesses will receive a waste transfer note from their authorised waste company and this record must be kept and stored by the business, for 2 years and must be produced if asked by an authorised officer.
- 3. If a company transport waste as part of their business or otherwise for profit, they must register with Natural Resources Wales (NRW) as a waste carrier, unless they are carrying their own waste and it is not construction or demolition waste. A charity or voluntary organisation can collect or transport

waste on a professional basis but must also register with the NRW as a waste transporter.

4. Failure to produce a waste transfer note or waste carrier's license can result in a FPN and/or prosecution and seizure of the unregistered vehicle by an Authorised Enforcement Officer.

#### **4.4 Fly tipping**

1. The mismanagement of waste and waste dumping (fly tipping) degrades the amenity of an area and often attracts further environmental crimes.
2. Through the action of this Policy, we will educate and advise the community on how to properly manage their waste. We will use all relevant legislation at our disposal to prosecute those who fail to act on this education and advice.
3. Through linking the illegal disposal of waste (residential or commercial) back to a resident or company, Flintshire County Council will ensure that those dumping their waste on public or private land are prosecuted and that any clean-up costs are recovered from the offender.
4. The Council proactively use CCTV in known problem areas to identify offenders and this will be used in evidence on detection of illegal tipping.
5. Section 33 of the Environmental Protection Act 1990 provides that:  
  
S33 – (8) a person who commits an offence under this section shall be liable
  - (a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding £20,000 or both; and
  - (b) on conviction or indictment, to imprisonment for a term not exceeding two years or a fine or both
6. Should a Flintshire resident be found disposing of their waste illegally (i.e. not at a designated Household Waste Recycling Site), the following actions will be taken;
  - The offence will be investigated, and the offender will receive a FPN if there is evidence linking the property or person to the waste. They will also be informed of the location of Household Waste Recycling Sites where waste can be disposed of safely and legally.



- An invitation to attend an interview under Caution and subsequent legal proceedings will be considered dependent upon the seriousness of the offence and all related circumstances e.g. persistent offenders
  - If the waste is in anyway harmful, then the information related to the case will be passed to Natural Resources Wales for consideration for prosecution
7. In appropriate cases involving criminal enterprise, an application may be made under the Proceeds of Crime Act for confiscation of assets to recover the financial benefit that the offender has obtained from a criminal conduct. Proceedings are carried out in accordance with the civil standard of proof and applications are made after a conviction has been secured but before the offender has been sentenced.

#### **4.5 Graffiti**

1. Graffiti is aesthetically unsightly and is criminal damage. In Flintshire, the problem is most prominent in housing and retail areas, and clearing it from public land creates a large cost for the Council.
2. We will remove any racist or offensive graffiti on public buildings or property within 6 hours of it being reported and all other graffiti on public buildings or property within 48 hours of the report (Streetscene standards). Council officers do not have the authority to enter private land unless permission is granted by the owner.
3. Part 6 of the Anti-Social Behaviour Act 2014 allows a local authority officer to issue a FPN in relation to minor graffiti and require, by notice, statutory undertakers, such as railways and port authorities, to remove graffiti, and to prevent the sale of paint sprays to anybody under 16.
4. If any person is found to be damaging any property with any form of graffiti then Flintshire County Council will take the following action;
  - A FPN will be issued by an authorised Enforcement Officer.
5. Where buildings owned by statutory undertakers are subject to graffiti, the Council will;
  - Serve a notice requiring the graffiti to be removed within 28 days, after which time we will remove the graffiti and reclaim our costs.

6. In order to regulate the sale of spray paints to under 16's
  - The Council will consider the institution of legal proceedings against anyone selling spray paints to under 16's.
7. A FPN may be used as a means of disposing of the offence by means other than prosecution. It is the offender's opportunity to avoid a conviction if they pay in full a penalty instead. Non-payment or partial payment of a penalty notice is generally not an offence in its own right and should a recipient not pay in full the penalty offered within the timescale specified, prosecution may be necessary for the actual offence.

#### **4.6 Advertisements**

1. General:

Those advertisements which require advertisement consent should be displayed in accordance with the Town and Country Planning (Control of Advertisement) Regulations 1994. These regulations provide the framework for controlling the display of some types of advertisements. These may include: posters and notices; placards and boards; fascia signs and projecting signs; pole signs and canopy signs; models and devices; advance signs and directional signs; estate agent boards; captive balloon advertisements; flag advertisements; price markers and price displays; traffic signs and town and village name signs. However, whether consent is required often depends on the size, position or illumination of the advertisement. Any enquiries regarding the erection of an advertisement which isn't on highway land should be submitted to [planningenforcement@flintshire.gov.uk](mailto:planningenforcement@flintshire.gov.uk). The Planning Enforcement Policy January 2019 which is available on Flintshire.gov.uk website sets out the Planning Service's approach to investigation, what the enquirer may expect and any likely outcomes.

- a. The Highways Act 1980 required that all advertisements displayed on the public highway require the consent of the Highway Authority. The display of such advertisements without the appropriate consent is an offence under the Highway Act 1980.
- b. The Anti-social Behaviour Act 2014 allows a local authority officer to issue a fixed penalty notice in relation to fly posting offences.

## 2. On Highway Land:

a. Where advertisements are displayed on highway land, without the appropriate consent and/or licence, the following actions will be taken:

- If an advertisement has a serious detrimental impact on the environment and/or highway safety, the Council will remove it immediately and invoice the person(s) responsible for and/or benefiting from the advertisement for the costs of removal.
- All other advertisements will be investigated and the person(s) responsible for the display of the said advertisement(s) will be requested to remove them within a specified time period days.
- If they are not removed within that period, the Council will remove them and the person(s) responsible for and/or benefiting from the advertisement will be sent an invoice for the cost.
- A fixed penalty notice will be issued and/or legal proceedings instigated where offenders are uncooperative or are persistent offenders

## 3. On Private Land and/or Buildings:

a. Where advertisements are displayed on private land or on a building, without the appropriate consent the following action will be taken:

- If an advertisement has a serious detrimental impact on the environment, affects the character of a listed building or is detrimental to highway safety; the Council will request the removal of the advertisement immediately or within a specified time period.
- All other advertisements will be investigated and the person(s) responsible for the display of the said advertisement(s) will be requested to remove them within a specified time period.
- If they are not removed within that period, the Council will instigate legal proceedings against the person(s) responsible for and/or benefiting from the display of the advertisement where offenders are uncooperative or are persistent offenders
- Legal proceedings will be considered on a case by case basis e.g. consideration of particular circumstances and/or persistent offenders

## **4.7 Dog Orders**

1. Allowing your dog to foul in Flintshire and to subsequently fail to clean up afterwards is an offence. Not only is dog fouling aesthetically unpleasant, it also has the potential to transmit diseases particularly to young children. All Dog mess should be bagged and placed in a waste bin.

2. Public Space Protection Orders (PSPO's) are an intervention to prevent individuals or groups committing anti-social behaviour in a public space. They form part of the Anti-Social Behaviour, Crime and Policing Act 2014 and Councils may adopt a PSPO after consultation with the Police, the Police and Crime Commissioner and community representatives.
3. Creating a PSPO provides an opportunity to introduce additional enforcement actions against other designated offences, such as the complete exclusion of dogs from certain land classifications and a requirement to keep dogs on leads at all times in some specified areas.
4. Flintshire has in force a Dog Control and Dog Fouling Public Space Protection Order which requires dog walkers to:
  - Remove dog waste immediately from the ground at all public locations.
  - Put their dog on a lead when directed to do so by an authorised officer. This only applies to any public land where a dog is considered to be out of control or causing alarm and distress.
  - Keep dogs on leads within cemeteries.
  - Have a means on their person to collect dog waste from the ground if asked by an authorised officer.

Dogs are also excluded from entering:

- equipped children's play areas
  - The playing area of specific sporting or recreational facilities
  - School Grounds
  - The playing areas of marked sports pitches
5. The following enforcement activities are in force in Flintshire in respect of dog control.

RESTRICTION	PSPO
1. Dog Owners, by order, to <b><u>remove their dogs faeces from all</u></b> of the land classifications discussed.	A Person in charge of a dog shall be guilty of an offence if in charge of a dog and does not remove dog faeces forthwith from public land.
2. Dog Owners <b><u>must place their dog on a lead</u></b> , when requested by an authorised officer, in response to a dog under their control being loose and causing a nuisance or annoyance to any other person, bird or animal, <b><u>on all</u></b> the land classifications discussed.	A person in charge of a dog shall be guilty of an offence if he/she does not comply with a direction by an authorised officer to put and keep the dog on a lead.
4. Dogs to be <b><u>excluded</u></b> from entering the boundary of <b>Marked Sports Pitches</b> .	A person shall be guilty of an offence if, at any time, he/she takes a dog onto, or permits the dog to enter or remain on a marked sports pitch.
5. Dogs to be <b><u>excluded</u></b> from the playing area of formal recreation areas such as <b>bowling greens and tennis courts</b> .	A person shall be guilty of an offence if, at any time, he/she takes a dog onto, or permits the dog to enter or remain at designated sports areas.
6. Dogs to be <b><u>excluded</u></b> from <b>equipped children's play areas</b> .	A person shall be guilty of an offence if, at any time, he/she takes a dog onto, or permits the dog to enter or remain in an equipped Children's play area.
7. Dogs to be <b><u>excluded</u></b> from all areas within <b>School Grounds</b> .	A person shall be guilty of an offence if, at any time, he/she takes a dog onto, or permits the dog to enter or remain on school grounds.
8. Dogs to be kept on a <b><u>lead</u></b> in <b>Cemeteries</b> .	A person in charge of a dog shall be guilty of an offence if, at any time, does not keep the dog on a lead.

## 6 Stray Dogs

- a. A Dog roaming unattended in a public place is deemed to be a 'stray' and the Dog Warden will 'seize' and detain it. Members of the public

who find a stray dog are required to either return it to its owner, or take it to the local authority of the area where it was found.

- b. Current legislation requires a dog in a public place to be fitted with a collar and a tag bearing the name and address of the owner (Note: a microchip does not meet this statutory requirement). Where a stray dog has a form of identification or the owner of the dog is known, the Dog Warden will serve upon the owner a 'notice of seizure' (ss. 149(3)&(4) EPA). The notice specifies that the dog has been seized, where it is being kept and that it is liable to be disposed of if it is not claimed within seven clear days from the date of the notice. The Council can delegate it's duties to collect, detain and dispose of its stray dogs to its kennel operators.
- c. The owner of a stray dog is "not entitled" to the return of the animal until they have paid all the expenses incurred and a further prescribed sum (s.149 (5) EPA). Should the dog not be claimed, or the owner declines to pay the sums outstanding, the ownership of the dog is legally transferred to the Council after seven clear days. The Council is then entitled to sell or re-home the dog (except for the purposes of vivisection) or to have it humanely destroyed.
- d. The Environmental Protection Act specifies that in each case, a dog seized as a stray is required to be detained and a notice of seizure served upon the owner (where known). In addition, the policy of the Council is that, on the first occasion that a dog is seized, the Dog Warden will make all reasonable efforts to identify the owner and return it to them before taking it to kennels; i.e. not incurring any charges. The Dog Warden carries a scanning device to identify dogs fitted with a microchip. If the address of the owner is identified, the Dog Warden will either visit or telephone; if contact is made, the dog will be returned.
- e. A dog will only be returned to an address if there is someone able to receive the dog – it will not be left at an unoccupied property, for example where the owner is out. A dog seized on a second occasion is automatically taken directly to the kennels, thus incurring fees and charges.
- f. Kennelling fees are charged on a daily rate and the cost is subject to review. Fees are payable immediately when the animal is received; therefore a dog held overnight incurs two days kennelling costs, plus a Statutory fee. Thus any dog kennelled will immediately incur charges (plus any veterinary fees), even if it is only held for a matter of hours and reclaimed the same day.

- g. Stray dogs will only be accepted at the holding kennels during certain pre-agreed times. Working hours for Dog Wardens will include the period 08.30 hours –17.00 hours (Monday to Fridays). Outside this period all reports of stray dogs and lost dogs should be directed to the Carelink out of hours service, who will contact the Dog Warden on call to arrange collection and transport the dog to the kennels, or advise finder of stray dog of acceptance point where the dog can be taken if the finder so wishes or requests that they take the stray dog, the finder will be told that this is not recommended and should be done at their own risk and free will. The out of hours collection service will operate up to 22.00hrs, after that time advice will be given to the finder of the stray dog. Collection of stray dogs after 22.00hrs will be for emergency calls only.
- h. In circumstances where collection is not possible, finders are advised to either: i) retain the dog until it can be collected (usually next working day), or; ii) return it to the owner if known, iii) take the stray dog to the acceptance point at their own risk and free will. Advice will be given to the finder of the stray dog by the Dog warden on call.
- i. Any reports of stray dogs should be logged with our Streetscene Contact Centre.

#### **4.8 Sites Detrimental to the Amenity of an Area**

1. Derelict or unsightly properties can attract acts of anti-social behaviour and can be misused. They can also cause neighbourhoods to look unsightly and detrimentally affect property prices in close proximity.

Where the condition of land or a building is adversely affecting the amenity of a neighbourhood the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to remedy the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council also has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner. The Council's Planning Enforcement Policy adopted January 2019 available on the Council's website.

#### **4.09 Drinking Alcohol in Public Places**

1. Flintshire's Designated Public Protection Order (DPPO), which gave designated officers powers to restrict alcohol in public places, automatically transferred into a Public Spaces Protection Order under Section 75(3) of the

Anti-Social Behaviour, Crime and Policing Act 2014 on the 20th October 2017.

The conditions of the previous DPPO have not changed. And it is still an offence anywhere in the County to refuse to surrender alcohol to the police or authorised person if there is, or is likely to be, associated anti-social behaviour.

2. The Order does not mean that alcohol is banned in public places. A drinker's behaviour will be considered in any action taken by our Enforcement Officers. If you are drinking alcohol sensibly in a public place, you will not be affected.
3. North Wales Police have the power to ask you to stop drinking alcohol in a public place if in their opinion;
  - You are creating disorder or behaving in an anti-social manner when drinking or under the influence of alcohol
  - You are likely to behave in an anti-social or disorderly way when drinking or under the influence of alcohol
4. The action the officer takes will depend on your response to his request. This will vary from your alcohol being seized and disposed of to an arrest and conviction of a public order offence.
5. Flintshire County Council works in partnership with North Wales Police to ensure we reduce the harm of alcohol on those who live, work in, or visit our County.

#### **4.10 Abandoned Vehicles**

1. Residents and visitors to Flintshire are encouraged to ensure that vehicles are parked correctly on the highway and have an up to date tax disc to avoid them being mistaken for an abandoned vehicle.
2. The Refuse Disposal (Amenity) Act 1978 states the following on the Removal of Abandoned Vehicles;

[K] where it appears to a local authority that a motor vehicle in their area is abandoned without lawful authority on any land in the open air or on any land forming part of a highway, it shall be the duty of the authority to remove the vehicle.
3. If a vehicle is reported to be abandoned, then the following actions will be taken;
  - DVLA records will be checked in an attempt to find the owner. If this is unsuccessful, then officers are free to enter the vehicle to obtain any documents that may contain details of the owner.



- A 24 hour notice will be served on the vehicle if it is considered to be dangerous. If the owner takes no action, then it will be removed and disposed of or stored dependent upon the circumstances.
- All other vehicles will be served with a 7 day notice requesting the owner to remove it by an authorised Enforcement Officer.
- If no action has been taken by the owner after 7 days, the vehicle will be removed. A vehicle in good condition can be put forward for sale to reclaim any costs.
- In all circumstances, the previous registered owner (as registered with DVLA) will be issued with an invoice for costs of removal and/or disposal of the vehicle.

#### **4.11 Abandoned Supermarket Trolleys**

1. Shopping trolleys, taken from their original site and abandoned in the surrounding communities cause problems in many neighbourhoods in Flintshire. When abandoned, these trolleys have a negative effect on the quality of the local environment and trolleys abandoned in water courses have the further potential to cause blockages which result in a significant flooding risk.
2. In 2006, amendments made by the Clean Neighbourhoods and Environment Act 2005 have added powers to the Environmental Protection Act 1990 to assist local authorities in reclaiming charges associated with the removal, storage and disposal of trolleys.
3. The Council has a set standard charge within the legislation, based on the average cost of dealing with abandoned shopping and luggage trolleys in its area. The charge includes administrative costs, such as those arising from the notification requirements, staff time for collection and delivery as well as the cost for storage.
4. The Council may agree a trolley collection scheme with persons who own shopping or luggage trolleys in its area, and where such an agreement is made, the Council may not charge costs under the Schedule for any trolleys within the scheme that are recovered by it. This arrangement would be subject to regular review and removed if the service failed to meet an acceptable standard.
5. Should your store provide a trolley for your customers to use and you wish to discuss a trolley collection scheme, please contact the Streetscene Contact Centre.

#### **4.12 Obstruction of the Public Highway**

1. It is illegal to wilfully obstruct the highway as well as any items left in the road, on pavements or overhanging pavements posing a health and safety risk for

road users and pedestrians. Examples of obstructions which will be subject to Flintshire County Council enforcement policies are as follows:

#### Skips, Building Materials and Hoardings

2. Anyone wishing to place a skip, building materials or a hoarding on the public highway must first obtain a licence. Flintshire County Council issue licences for these purposes, which are governed by a specific set of conditions depending upon the licence required.
3. Licences can be obtained by contacting the Streetscene Contact Centre (01352 701234) – Charge applies

#### Vegetation Detrimentially Affecting the Public Highway

4. Where a hedge or tree is, in the opinion of the relevant officer, endangering highway users Flintshire County Council may request the owner, or occupier of the land where the vegetation is growing, to make it safe. This includes vegetation obstructing the carriageway, pavements, signs, street lighting and street furniture as well as vegetation obstructing visibility at junctions or bends over highways authority land.
5. Owner/occupiers of land adjacent to the public highway are required to maintain their vegetation to ensure adequate highway clearance. A minimum clearance of 2.3m over pedestrian rights of ways and 5.0m over the carriageway must be provided.
6. In addition Flintshire County Council may require remedial action where trees are considered seriously defective and could potentially fall onto the public highway.
7. The degree of risk will be carefully assessed before determining what steps, and the timescales involved, are reasonably necessary to remedy vegetation which endangers the safe use of the public highway. In addition when requiring remedial action Flintshire County Council must have regard to protected species (e.g. Birds, Bats) which might make it more appropriate for remedial work to be undertaken at a specific time of the year. To safeguard protected species Flintshire County Council may also recommend that remedial work is carried out in a certain way whilst also fulfilling its statutory obligations under the Highways Act 1980.
8. Where an owner/occupier does not comply with a request to carry out works and the vegetation remains a danger to highway users Flintshire County Council may serve a formal notice requiring the remedial work to be undertaken within 14 days.

9. Failure to comply with a formal notice may result in the Council carrying out the work specified in the notice and recovering the expenses reasonably incurred from the person served with the notice.

#### Advertising Boards / Signs

10. Advertising boards are a source of serious obstruction on the public highway as well as being a potential health and safety risk, particularly when these are placed indiscriminately with no pedestrians' concern in mind.
11. The Council will inspect and approve applications for placing A Boards on the public highway. Any non approved items will be removed and stored for a period of 7 days to allow collection by the owner. This is necessary action to maintain a clutter free, safe, local environment.
12. The approval will be provided by Streetscene Supervisors and a small charge will apply for the initial application.

#### Tables and Chairs

13. Anyone wishing to place tables and chairs on the highway must first obtain a licence. This is to ensure that obstructions to the pavements in our communities are minimised and that we protect the public using them. The licence will state the number of table and chairs permitted the location and during what hours they are allowed to be placed on the highway.
14. The approval will be provided by Streetscene Supervisors and a small charge will apply for the initial application.
15. Any individual or business found obstructing the public highway could be served with a Notice under the Highways Act 1980.

### **4.13 Obstructions to the Highway or Rights of Way Network**

#### 1. Rights of Way

- a. Rights of way provide the ability for those who live or visit our County to enjoy and access our great views and walks.
- b. Obstructions to our rights of way networks prevent those who are entitled to access land, as well as at times put their health and safety at risk.
- c. The preferred method of dealing with an obstruction will be by liaison with the person having control over it. Where their cooperation cannot be

obtained, a notice under section 143 of the Highways Act 1980 will be served, which will require the removal of the obstruction within one month.

- d. Failure to comply will result in the Council's removing the obstruction and recovering its costs in so doing from the person having control of the obstruction

## 2. Mud or other obstruction on the Public Highway

- a. Given Flintshire's rural and industrial locations, there will be instances where agricultural as well as commercial vehicles will cause a nuisance as well as danger to other road users when spills or mud from tyres is left on the highway.
- b. All reports of this nature will be investigated by staff from the Streetscene service. Every site will be assessed to evaluate the immediate risk to road users. Should the incident constitute an immediate risk to the health and safety of the highway immediate action will be taken to remediate the problem and return the highway to its original condition.
- c. The waste carrier or road user found to have caused the problem, will be invoiced for the cost of the additional clean up.
- d. In cases which do not justify immediate intervention the individual or company whose actions have caused the incident will be served notice to make good the highway.
- e. Failure to comply with the timescales within the notice will result in Streetscene undertaking the clean up and recharging for the remediation work.

### **4.14 Car Parking and Parking Enforcement**

1. The Council is currently responsible for managing parking within Council owned car parks in Flintshire. If you are found to be in breach of the parking regulations, you will receive a parking fine (Penalty Charge Notice) on the windscreen of your vehicle.
2. Flintshire is also responsible for managing on and off street car parking across the County.
3. The Police can still issue Fixed Penalty Notices to vehicles causing obstructions on the highway. All other parking, loading and waiting offences will come under the remit of the Council's Enforcement Officers.

4. The parking enforcement arrangement is not about raising revenue. There are a number of reasons why the new regime has been introduced, all of which benefit people living in, working in and visiting the County.
  - Encouraging safe and sensible parking
  - Improve safety for pedestrians and drivers
  - Improve general flow of traffic and journey times through the County
  - Prevent emergency and public service vehicles from finding their routes blocked
  - Improve the general environment
  - Free the police to concentrate on their resources on issues felt by the public to be more directly their responsibility.
5. It is your responsibility to park your vehicle correctly. Details of how to pay your Penalty Charge Notice will be shown on the back of the PCN.
6. The Wales Penalty Processing Partnership is responsible for processing parking fines and you can access their website through the Council's link as well as access details on restrictions and levels of offences:

[www.flinthsire.gov.uk/parking](http://www.flinthsire.gov.uk/parking)

or via telephone 0845 6056556

#### 4.15 **Other Environmental Issues**

Other departments of Flintshire County Council also contribute towards a safer and better environment by covering issues such as visual amenity, vermin infestations, empty properties, drainage and sewage issue. Further details can be obtained on the website.

### **5 Application of Enforcement Policy**

- All age groups will be approached through the work and corrective action within this policy; however Fixed Penalty Notices will only be issued to persons aged above the age of sixteen. Offenders below this age will have details logged, and parents/guardians will be contacted to tackle unacceptable actions within the community.
- Payment of FPNs by instalments will not normally be accepted. Instalments will only be allowed where demonstrable hardship can be proven and prosecution is likely to result in a conditional/absolute discharge.
- Non payment of FPNs / invoices for work in default will result in legal proceedings being instigated by the Authority against the named individual.
- If enforcement action results in interference with the human rights of an individual, then the Council must be satisfied that the interference is necessary

and proportionate to what it seeks to achieve. Any covert surveillance requires approval through the Regulation of Investigatory Powers Act (RIPA) 2000.

- The standard approach and application of enforcement will be followed in addition to the above point as explained in the Public Protection Enforcement Policy 2012 which covers residents and businesses in Flintshire.
- It is the Council's approach to take a zero tolerance approach to environmental crime and to apply the maximum penalty appropriate in each case.
- The enforcement of the law will be accompanied by an education and information campaign.

Further information and advice should be sought from our Streetscene Contact Centre or via the Flintshire County Council website

01352 701234

[www.flintshire.gov.uk](http://www.flintshire.gov.uk)

## **6 Environment Enforcement Protocols**

Type	Action	Escalation	Service
Deliberate Littering Offences	Immediate issue of FPN	Prosecution if penalty unpaid	Streetscene Enforcement Officers as Authorised Officers / North Wales Police
Not clearing up after dog Fouling on Public Open Space	Immediate issue of FPN	Prosecution if penalty unpaid	Streetscene Enforcement Officers as Authorised Officers / North Wales Police
Other dog controls covered by PSPO	Immediate issue of FPN	Prosecution if penalty unpaid	Streetscene Enforcement Officers as Authorised Officers / North Wales Police
Stray Dogs	Payment of kennelling, vets fees and standard charge before release of dog	Failure to pay, or claim dog within 7 days will result in the dog transferring into the ownership of the Authority	FCC Dog Warden
Fly tipping (Minor incident)	Issue of FPN subject to evidence	Prosecution if penalty unpaid	Streetscene Enforcement Officers as Authorised Officers / North

Type	Action	Escalation	Service
			Wales Police
Fly tipping (significant incident)	PACE interview and court file prepared	Prosecution where sufficient evidence exists	Streetscene Enforcement Officers as Authorised Officers / North Wales Police  Natural Resources Wales
Statutory Public Health Nuisances	Compliance reached to resolve problem	Improvement or abatement notice issued Prosecution where sufficient evidence exists	FCC Authorised Officers
Drinking alcohol in public places	Confiscation of alcohol based on each individual circumstance	Possible arrested and convicted of a public order offence	North Wales Police
Side Waste	Issue first warning letter and Section 46 formal notice for continuing non-compliance. FPN then issued	Possible prosecution where failure to comply	Streetscene Enforcement Officers as Authorised Officers.
Residential Waste	Issue of FPN for failure to produce Waste collection contract / Waste transfer Note	Prosecution if penalty unpaid	FCC Authorised Officers
Commercial Waste	Issue of FPN for failure to produce Waste collection contract / Waste transfer Note	Prosecution if penalty unpaid	FCC Authorised Officers

Type	Action	Escalation	Service
Commercial Waste	Issue of FPN for failure to produce waste carrier licence and/or prosecution and seizure of vehicle	Prosecution and seizure of vehicle	Natural Resources Wales
Graffiti	Criminal Damage	Prosecution	North Wales Police
Advertisements	Immediate issue of FPN Removal of posting from Council Buildings	Prosecution if penalty unpaid Removal of posting by Council - Remedial work charged to fly poster.	FCC Authorised Officers - Planning  Streetscene
Civil Parking Enforcement	Immediate issue of PCN	Proceed to debt recovery if PCN unpaid	Streetscene Civil Parking Enforcement Officers
Abandoned Vehicles	Notice placed on vehicle requested movement within 7 days (Public Land) / 14 days (private land)	Removal of vehicle – costs of recovery through scrap value	Streetscene Enforcement Officers as Authorised Officers / North Wales Police
Abandoned Trolleys	Collection of trolley and stored for statutory timescale	Trolley owner charged for return	Streetscene Coordinators
Advertising Boards/A Frames and signs	Removed immediately if no licence be in place	Items kept for 7 days before disposal	Streetscene Enforcement Officers as Authorised Officers / North Wales Police



Type	Action	Escalation	Service
Skips, building materials and hoarding	Removal as soon as possible should licence not be in place		Streetscene Coordinators
Tables and Chairs	Removed immediately should no licence be in place	Items kept for 7 days before disposal	Streetscene Coordinators/ Planning enforcement
Overgrown hedges*	Issue request to carry out remedial work to resident or land owner	1. Issue formal warning after 14 days 2. FCC to complete remedial work and recharge if not carried out within 14 days of the end of the formal warning period	Streetscene Coordinators
Street lights obstructed by hedges/trees	Issue request to carry out remedial work to resident or land owner	1. Issue formal warning after 7 days 2. FCC to complete remedial work and recharge if not carried out within 14 days of the end of the formal warning period	Streetscene Coordinators
Mud on Road	Immediate verbal warning to person responsible  Risk assessment carried out and immediate remedial action taken if necessary. Cost recharged to perpetrator	1. Written warning sent to perpetrator with timescale for remedial action 2. FCC to complete remedial work and recharge if not carried out within	Streetscene Coordinators

Type	Action	Escalation	Service
		appropriate period. (timescale subject to risk assessment)	
Dangerous or trees in need of maintenance	Issue request to carry out remedial work to resident or land owner (subject to risk assessment)	1. Issue formal warning after 7 days 2. FCC to complete remedial work and recharge if not carried out within 14 days of formal warning (or immediate if Risk Assessment requires)	Streetscene Coordinators for Highway trees  Tree services for all other locations
Obstruction to public right of way (footpath/bridle way)	Issue request to carry out remedial work to resident or land owner	1. Issue formal warning after 7 days 2. FCC to complete remedial work and recharge if not carried out within 14 days of formal warning (or immediate if Risk Assessment requires)	Rights of Way