Appendix 2

Litter and Dog Fouling Enforcement Policy

1. Introduction

2. Ashford Borough Council has a statutory power to enforce against the offence of leaving litter on any public open space (and some other qualified areas). This provision seeks to affect and improve the quality of life of those who live in and visit the borough.

3. This policy has been developed taking into account DEFRA guidance that the Council should always act in the public interest; it responds to the public demand for strong enforcement, supports the corporate objective of “Attractive Ashford”, and ensures consistency by supporting those officers who issue Fixed Penalty Notices (FPNs).

4. This document outlines the Council’s policy on litter enforcement and how this will help to achieve the overall aims for the corporate plan.

5. In publishing this policy, The Cabinet is demonstrating its commitment to the protection of the quality of life of our residents and our environment by providing robust and effective enforcement services.

6. This Policy should be read in conjunction with the Council’s Enforcement Policy (adopted by Cabinet 12th May 2016) and the Regulator’s Compliance Code.

Statement of Policy

7. This policy is based on the four key principles:

   - **Consistency** – to ensure that similar incidents are dealt with the same way. However, each incident will be dealt with on its merits.

   - **Fairness** – to ensure a fair and even handed approach to ensure decisions are not influenced by gender, ethnic origin, or religious, political or other beliefs.

   - **Transparency** – to ensure that any enforcement action taken is easily understood by citizens and businesses.

   - **Proportionality** – to ensure that any enforcement action taken is in proportion to the actual offence.
8. Ashford Borough Council as a responsible Council are committed to meeting legislative requirements and guidance in respect of public realm and street cleansing standards. Responsibility for maintaining these standards falls not only to the Council but to everyone living, working and visiting the borough. Whilst working within the terms of the Council’s Enforcement Policy and its Litter Policy we will rigorously enforce the powers available to us to ensure that individual responsibilities are met and will take appropriate action against those who litter and fail to clear up after their dog has fouled. We will use intelligence and respond to complaints about such matters promptly and where appropriate will deploy our resources proactively, at times and in locations, to identify and confront offenders.

9. The Policy aims to:
   - change the behaviour of offenders
   - offer a cost effective and efficient means of punishment without prejudicing the person’s right to judicial process
   - be proportionate to the nature of the offence
   - deter future non-compliance

10. Fixed Penalty Notices will be issued by Enforcement Officers authorised by Ashford Borough Council, in the majority of situations where they witness an individual intentionally littering or failing to clear up after the dog they are in control of that has fouled.

11. In the case of littering this shall apply to all public land and private land in the public domain and within the scope of the relevant legal controls (i.e. almost all publically accessible land).

12. In the case of dog fouling, this shall apply to all public land as defined in the Dogs Fouling of Land Act 1996 (i.e. all public land but with limitations concerning roads with speed limits over 40 MPH, Common Land and land already subject to Dog Control Orders under the CN&EA).

13. With reference to the above, officers should generally issue a FPN where an offence has been witnessed. Discretion not to issue a FPN will be exercised cautiously in the interests of consistency. However, examples where discretion may be exercised include:
   - Where the event witnessed was clearly unintentional or where the perpetrator has made every effort to remove the litter/dog fouling and dispose of it appropriately, or
• Where the officer believes the perpetrator is less than 18 years of age or
• Where the perpetrator has committed this offence or a related offence previously or the offence is aggravated and therefore the officer deems it appropriate to recommend that the perpetrator be prosecuted.
• This list is not definitive and there may be other circumstances when discretion may be exercised.
• Where a FPN has been issued in accordance with the relevant procedure the recipient shall be required to pay the appropriate fee in full. Acceptable methods of payment are stated on the FPN. Failure to pay or failure to pay on time will normally result in the case being escalated with a view to prosecuting the offender for the original offence.
• The company providing the Enforcement Officers to act on behalf of the Council, will deal with complaints through their formal complaints procedure. However, it should be noted that the complaints procedure does not include a mechanism by which the issuing of a FPN itself can be challenged; this is a matter for the courts to decide should the matter be brought before them.
• Ashford Borough Council will not tolerate verbal abuse or threats of or actual physical abuse, against any of its staff. All such instances will be investigated by a senior manager and reported to the Police as necessary.

14. Officers acting on behalf of the Council will conduct themselves in a professional manner at all times.

15. If the FPN remains unpaid after the specified period a prosecution file will be prepared and passed to legal services to initiate a prosecution for the offence.