



## HERTFORDSHIRE FLY TIPPING GROUP

### Definition of Fly Tipping

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#### **1. Background**

- 1.1. Technically there is no definition of fly tipping other than the offences set out in section 33 of the Environmental Protection Act 1990, i.e. the illegal disposal of controlled waste.
- 1.2. The Litter & Refuse Code of Practice published by Defra in 2006 noted that a single plastic sack of rubbish should usually be considered fly tipping rather than litter. However, the use of the term 'usually' indicates an acceptance that definitions cannot be rigid.
- 1.3. Under this context it is commonly assumed that fly tipping is as a result of deliberate negative behaviour ranging from those that care little about their local amenities to those seeking to profit from the illegal dumping.
- 1.4. However, it is common knowledge that a significant proportion of the fly tipping incidents recorded each year stem from individuals acting in what they believe to be a fair and reasonable manner, i.e. leaving out additional black bags to be collected alongside their refuse bin on collection day where the motivation is not negative but rather is intended as being responsible. Historically some authorities would class this as fly tipping and some would not which leads to an inconsistency in reporting.

#### **2. The Definition**

- 2.1. Taking the above into account and in order to improve the level of consistency with respect to reporting in Hertfordshire fly tipping is defined as 1 "black bag" and 'above'.
- 2.2. However, the definition is subject to the following:
  - incidents that occur on collection day, i.e. black bags placed next to a bin on collection day should not be defined as fly tipping.

2.3. However, the following incidents would still be considered fly tipping

- Black bags left out on non-collection days;
- Black bags / sacks or other 'containers' containing hazardous materials such as bonded asbestos, chemicals, paints etc;
- Black bags / sacks left out next to a bin where it cannot be reasonably determined that the sacks and bin belong to the same premise;
- Black bags / sacks left out in numbers that indicate unusual waste behaviour, i.e. the illegal deposit of trade waste as domestic;
- The deposit of trade waste in domestic bins;
- Repeat offenders, i.e. those that regularly leave out excess waste for example as a result of refusing to engage with recycling services offered by boroughs and districts;
- Black bags / sacks left out by commercial customers contrary to their contracted waste arrangements. Such incidents should continue to be treated as either fly tipping or alternatively as '*Duty of Care*' offences.

2.4. Whilst the above correctly tries to underpin a common definition for use across the County it has to be recognised that flexibility is still needed in the overall approach in order to account for the potential range of circumstances that could be encountered as part of any single incident.

2.5. Therefore pragmatically it is recommended that whilst there would be general adherence to the definition noted above; ultimately in determining whether to issue a FPN for littering, a £300 FPN or to prosecute the partner authorities may consider factors such as waste type, size, location, effect on environment and attitude of the offender in accordance with either local enforcement policies and / or wider standards and policies that may be agreed by the FTG from time to time.

(Agreed by the FTG - September 2016)

(Reviewed by the FTG – June 2018 – no changes made\_

(Reviewed by the FTG – December 2022 – no changes made)