

Environment Policy Development Group

Tuesday, 23 January 2024 at 5.30 pm
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Tuesday, 12 March 2024 at 5.30 pm

Please Note: This meeting will take place at Phoenix House and members of the Public and Press are able to attend via Teams. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

The meeting will be Hybrid and an audio recording will be made and published on the website after the meeting

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Membership

Cllr M Fletcher
Cllr B Fish
Cllr C Adcock
Cllr G Czapiewski
Cllr C Harrower
Cllr B Holdman
Cllr J Poynton
Cllr S Robinson
Cllr G Westcott

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **Apologies and substitute Members**
To receive any apologies for absence and notices of appointment of substitute Members (if any).
- 2 **Declarations of Interest under the Code of Conduct**
To record any interests on agenda matters.
- 3 **Public Question Time**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.
Note: A maximum of 30 minutes is allowed for this item.
- 4 **Minutes of the Previous Meeting** *(Pages 5 - 12)*
To consider whether to approve the minutes as a correct record of the meeting held on Tuesday 7 November 2023.
- 5 **Chairman's Announcements**
To receive any announcements that the Chairman may wish to make.
- 6 **Cabinet Member for Environment and Climate Change Update**
(Pages 13 - 30)
To receive an update from the Cabinet Member for Environment and Climate Change and the Climate and Sustainability Specialist including the statutory duty to conserve and enhance biodiversity.
- 7 **MDDC draft MTFP 2024 - 2025 - Second Review**
To receive a verbal update on the second Medium Term Financial Plan for 2024 – 2029 from the Corporate Manager for Finance, Property and Climate.
- 8 **Environment and Enforcement Policy Update** *(Pages 31 - 96)*
To receive a report from the Environment and Enforcement Manager and to consider and recommend to Cabinet the proposed changes.
- 9 **Green Standards in Planning including Renewable and Alternative Energy, Energy Efficiency and Community Energy Projects** *(Pages 97 - 102)*
To receive a briefing paper from the Climate and Sustainability Specialist
- 10 **Renewable Energy in Mid Devon** *(Pages 103 - 108)*
To receive a briefing paper from the Climate and Sustainability Specialist relating to Renewable Energy in Mid Devon
- 11 **Work Programme** *(Pages 109 - 110)*
To receive and review the current work plan for the Environment PDG.

Stephen Walford
Chief Executive
Monday, 15 January 2024

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact David Parker on:

Tel: 01884 234311

E-Mail: dparker@middevon.gov.uk

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MINUTES of a **MEETING** of the **ENVIRONMENT POLICY DEVELOPMENT GROUP**
held on 7 November 2023 at 5.30 pm

Present

Councillors

M Fletcher (Chairman)
B Fish (Vice Chairman), C Adcock,
C Harrower, G Czapiewski, B Holdman,
S Robinson and G Westcott

Apologies

Councillor(s)

Also Present

Councillor(s)

D Broom, E Buczkowski, J Buczkowski, L Taylor, J Wright
and D Wulff

Also Present

Officer(s):

Matthew Page (Corporate Manager for People, Governance and Waste), Paul Deal (Corporate Manager for Finance, Property and Climate Change), Luke Howard (Environment and Enforcement Manager), Darren Beer (Operations Manager for Street Scene), Jason Ball (Climate and Sustainability Specialist), Sarah Lees (Democratic Services Officer) and David Parker (Democratic Services & Policy Research Officer)

Councillors

Online

N Bradshaw, S J Clist, A Cuddy, A Glover, L Knight, J Lock
and J. Poynton

Officers Online

Dr Stephen Carr and Dean Emery

32 APOLOGIES AND SUBSTITUTE MEMBERS (0:03:27)

There were no apologies

33 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0:03:38)

Members were reminded of the need to make declarations of interest where appropriate.

None were declared.

34 **PUBLIC QUESTION TIME (0:03:54)**

There were no questions from members of the public

35 **MINUTES OF THE PREVIOUS MEETING (0:04:07)**

The minutes of the previous meeting, held on Tuesday 10 October 2023, were approved as a correct record and **SIGNED** by the Chairman.

36 **CHAIRMAN'S ANNOUNCEMENTS (0:04:27)**

The Chairman had no announcements to make.

37 **PERFORMANCE DASHBOARD (0:04:36)**

The Performance and Risk Manager explained the Dashboard. The "In Focus" box gave additional information specific to the Environment PDG. In response to a question as to why so many areas were highlighted in red, the Performance and Risk Manager explained that for instance;

- the Electric Fleet Vehicles had only been delivered in August so only two months of data was available;
- the main reason for Solar Panel Performance being below target was the delayed installation of a solar array at Exe Valley Leisure Centre.
- In terms of Finance, the reward from the Devon Share Saving Scheme had recently been received, so approximately £350,000 had not entered the dashboard yet.
- With regard to the use of agency staff, during the Covid Pandemic and post-pandemic period a lot of agency staff had been used, that use would reduce but there would probably be a need for agency staff in any event.
- With regard to Street Scene and Open Spaces the price received per ton of cardboard and other materials had reduced.
- The target figure for zero hours was an aim, we were on target but not there yet.
- Outturn against budget are overspends, but Capital projects was showing underspends.

The solar array at Exe Valley was subject to arrangements with the contractors and no update was yet available.

The next dashboard in the quarterly series would be available in the next quarter.

The report was **NOTED**.

38 **CLIMATE AND SUSTAINABILITY UPDATE (0:17:44)**

The Climate and Sustainability Specialist gave a verbal update and highlighted:

- The new Zed Pod projects had won an industry award for partnership work, community outreach and engagement.
- The Council has been awarded £660,000 from the Brownfield Land Release Fund (BLRF2) for an extra 50 Zed Pod homes at 6 locations. Councillors requested an opportunity to visit the Z-Pods.
- The Government had made decisions to fund Railway Stations at Cullompton and Wellington.

- The Government had committed to the M5 junction 27 improvements.
- Mid Devon District Council had put in a second bid for funds to decarbonise facilities at Culm Valley Leisure Centre.
- A Training Workshop had been delivered for Planning Officers on Biodiversity Net Gain.
- There had been a district Landscape Character review workshop.
- Leases had been signed for Electric Vehicle (EV) charge points at three car parks - William Street at Tiverton, Market Street at Crediton and Forge Way at Cullompton. A revenue share 5% of gross income would come to the Council.
- Conversations with landowners bidding for funding for flood alleviation work.
- There had been a swimming pools fund bid to reward / support energy efficiency investments.
- Public Sector Decarbonisation Scheme. Latest bid submitted to fund Culm Valley energy efficiency improvements and renewable energy installations.
- LEVI funding – as mentioned in the previous minutes for the October meeting this was for EV charging particularly on street e.g. from bollards, street lights or pavement gullies. The Climate and Sustainability Specialist encouraged Town and Parish Councils to nominate sites quickly to benefit from LEVI. The LEVI funding and ‘call for sites’ was hosted by Devon County Council.

The update was **NOTED**.

39 **REVIEW OF BIN IT 123 AND THE WAY FORWARDS (0:31:09)**

The Group had before it, and **NOTED**, a report* from the Corporate Manager for People, Governance and Waste.

The Chairman congratulated the Waste Management Team on their success with the scheme.

The following was highlighted within the report:

- Following the most recent Government announcement regarding Simpler Recycling, the Corporate Manager for People, Governance and Waste stated that he did not envisage the current three weekly collection scheme changing and that it was in the Council’s interest to make sure that its current scheme worked as effectively as possible.
- The report showed the improvement achieved since the implementation of three weekly collections in October 2022 regarding both a rise in recycling rates and a reduction in residual collection rates.
- Both of these are required to reduce the Councils carbon footprint and help it achieve its carbon net zero commitment. In the 21/22 national figures the Council was ranked in the top 35 of more than 200 Councils and Mid Devon District Council hopes to further improve its position in future 22/23 and 23/24 statistics.
- It was the team’s aim to ensure residents removed food waste from the residual waste collected and place it in the food caddy.
- Although the majority of households are complying with the scheme, 12% were putting out extra side waste and these residents required further education.

Consideration was the given to the following comments and questions:

- Whether families could be educated to use recyclable nappies – this was signposted on the website but greater emphasis could be applied.
- Whether uncooked food could go in the food waste caddy? – It was confirmed that all food, without packaging, should go in the blue food waste caddy. A campaign about food waste had gone to the residents of Teignbridge District Council and Mid Devon District Council could use the same campaign.
- Plastic packaging should be recycled at supermarkets soft plastics collections.
- Vulnerable residents – were Mid Devon District Council reaching them? Recycling Advisors would be going out into communities over the next few months to advise and support residents.
- Did Mid Devon District Council have any plans to start accepting plastic film?
- How could residual waste be reduced? Much of it could be recycled.
- The Environmental Protection Act 1990 s.46 contained legislation to enforce recycling. However, if waste was left piling up within the curtilage of a property then that was not an offence. District Council Officers could use other elements of the legislation to enforce and encourage householders to dispose of their rubbish properly.
- At the same time as educating the public, could excellence in recycling be celebrated?
Stickers were already used to explain why waste was not being taken, could a “Star” sticker be used to reward good practice?
- Why did the recycling centres refuse to accept households black waste? – If households had exceptional waste then if they contacted Customer Services on 01884 255255 then that waste could be collected.
- The Cabinet Member for Environment and Services commented that discussions about how to reduce waste and collaborative working with other authorities was already underway. In the graph at 2.4 of the report, 50% of the waste could easily be recycled within Mid Devon at no extra charge to the Council.
- Within the education programme being put together, the point should be made to the public that if the Councils in Devon didn’t spend £5m on collecting waste then what other services could be funded using that £5m?
- Education: The Street Scenes team were going into Primary Schools and talking to Key Stage 2 children (year 3 upwards). Mid Devon District Council contribute Resource Future who were specialist advisors from Bristol who go into schools to get involved in pupil engagement.
- Specialist campaigns around Christmas and other times of the year.
- Working with the Communications Team – radio advertising etc.
- Enforcement procedures – case by case basis.
- Households in challenging circumstances – the team encouraged Members to let them know if they were aware of residents needing support.

Note: *report previously circulated and attached to the minutes.

40 **QUARTER 2 ENVIRONMENT ENFORCEMENT STATISTICS (01:10:17)**

The Group had before it, and **NOTED**, a report* from Environment and Enforcement Manager.

Consideration was given to:

- Police and Criminal Evidence Act Training had been given to Enforcement Officers.
- Headline statistics on Car Parking use.
- The significant drop in fly tipping over the previous 12 months but a growth in commercial fly tipping.
- Working with a small selection of businesses about their residual waste.
- Abandoned vehicle statistics
- Making car parking more climate friendly – Mid Devon District Council were bringing in Electric Vehicle (EV) charging points.
- Efficiency of collecting Fly tips – 2 men per hour making 116 man hours.
- The average call out time between call out and collection depended upon whether the Enforcement Team had to get involved to see whether waste could be identified – the collection was usually carried out within days.
- The core reasons for commercial fly tipping were generally people who have a waste carriers licence but then didn't pay the waste charge and dump the waste.
- The public should report incidents via the Mid Devon App or to Customer Services.

Note: *report previously circulated and attached to the minutes.

41 **FLY TIPPING POLICY REVIEW (01:23:26)**

The Group had before it, and **NOTED**, a report* from Environment and Enforcement Manager and Corporate Manager for People, Governance and Waste.

RECOMMENDED to Cabinet that:

1. Delegated authority be given to the Environment and Enforcement Manager in respect of determining FPN value.
2. The fly tipping policy be amended to allow for
 - A sliding scale in respect of fly tipping Fixed Penalty Notice (FPN) amount, with the minimum being £400 and maximum amount £1,000.
 - A sliding scale in respect of breach of duty of care for household waste fixed penalty with the minimum being £150 and the maximum amount £600.
3. The fly tipping policy be amended for general updating purposes.

(Proposed by the Chairman)

Consideration was given to:

- The changes Central Government had made. – New legislation dated 31st July 23, the District Council could now fine a maximum of £1,000 rather than £400.
- Not all fly tipping was the same and the officer sought permission to apply the fines policy in a proportionate way using a sliding scale.

- Impacts of Fly Tipping – the team were proactive in tackling it.
- Commercial Fly Tippers would be prosecuted through the courts where the fines were unlimited.
- Record keeping in respect of Prosecutions.
- Whether there was a way for a householder to check that the waste they had paid someone to take to the re-cycling centre had actually arrived at the centre.
- The increase in fines worked as a deterrent as the disposal cost was close to the old fixed penalty fine of £400.
- Reciprocal arrangement between counties regarding waste centres – this was a Devon County Council matter.

Note: *report previously circulated and attached to the minutes.

42 **ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (01:38:47)**

The Chairman indicated that discussion with regard to the next item, may require the PDG to pass the following resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The PDG would need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information.

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

(Proposed by the Chairman)

43 **2024 - 2025 - FEES AND CHARGES (PART B RECORDING 0:00:27)**

The Group had before it, and **NOTED**, a report* from the Deputy Chief Executive (S151).

RECOMMENDED to Cabinet the proposed Fees and Charges for 2024/2025.

Consideration was given to:

- In 2023/2024 a complete review had been undertaken.
- September's Consumer Price Index (CPI) stood at 6.7%. That was the proposed uplift value applied to the majority of fees and charges for 2024/25. Where any proposals were exceeded, the justification would be presented to the relevant PDG.
- The take up for compostable sacks had plateaued.
- With regard to the shared savings with Devon County Council on residual waste, the Officer was trying to find out what would happen post 2026.
- Devon County Council – bulk waste charge has increased significantly.

Note: *report previously circulated and attached to the minutes (Figures in Part II only).

44 **WORK PROGRAMME (PART B RECORDING 0:00:48)**

Items considered for future meetings were:

- Green Standards in Planning – the Planning Policy Advisory Group would look at this as part of the Local Plan review. There would be room for discussion and cross pollination between groups via the Net Zero Advisory Group.
- Solar panels and renewable energy as sustainable income streams.

Note: * Work Programme previously circulated

(The meeting ended at 7.28 pm)

CHAIRMAN

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Report for: Environment Policy Development Group

Date of Meeting:	23 January 2024
Subject:	Climate and Sustainability Update
Cabinet Member:	Cllr Natasha Bradshaw - Cabinet Member for Climate Change.
Responsible Officer:	Jason Ball - Climate and Sustainability Specialist. Paul Deal - Corporate Manager for Finance, Property and Climate Change.
Exempt:	None which are Exempt from publication under paragraph 3, Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)
Wards Affected:	All.
Enclosures:	Biodiversity statutory duty report submitted to Cabinet 09 January 2024 .

Section 1 – Summary and Recommendation(s)

To receive an update on the Climate and Sustainability Programme and the Climate Action Plan (CAP).

Recommendation(s):

- 1. That the Environment Policy Development Group (PDG) notes and accepts this report as an update on the Council's Climate and Sustainability Programme, and progress on its response to the Climate Emergency including the Climate Action Plan (CAP).**
- 2. That the Environment PDG notes that the Council's Planning Policy Advisory Group will be engaged with ongoing work for the new Local Plan for Mid Devon throughout the plan making programme.**

3. That the Environment PDG notes the Cabinet report and the requirements on the Council to act in relation to the Biodiversity Duty.

Section 2 – Report

1.0 Introduction

1.1 The Council’s Corporate Plan places a strong emphasis on environmental sustainability matters woven into all aspects of its work, from procurement to promoting nature recovery. The Climate and Sustainability (C&S) Specialist leads development of the Council’s Climate and Sustainability Programme, working inclusively with all colleagues and Councillors, particularly the Corporate Manager for Finance, Property and Climate Change; and the Cabinet Member for Climate Change.

1.2 The Council has declared a Climate Emergency and aims to be climate neutral by 2030. The term ‘climate neutrality’ describes a balance achieved, for any given period, for carbon dioxide and other greenhouse gases released into or removed from the atmosphere; related to the actions taken by organisations, businesses or individuals. The goal of climate neutrality is to achieve a net zero climate impact.

1.3 The Council’s work to address the climate change crisis aligns with the climate emergency declaration across Devon, and the Devon Carbon Plan. Council actions with regard to **climate mitigation** (reducing greenhouse emissions) and **climate adaptation** (resilience to climate change risks) can be split into two work streams:

- an internal organisational / corporate focus for the Council;
- efforts to enable and facilitate actions across Mid Devon communities.

1.4 Therefore this report is divided into **corporate** and **community** items (some overlap is possible). Clearly the Council can monitor and manage matters related to our own assets and operations to a significant degree. For the wider agenda linked to the whole Mid Devon area, we will work as a partner with local businesses, organisations, community groups and residents.

1.5 This report emphasises activity and progress updates for brevity. For background details, please refer to previous reports, all [available online](#).

2.0 Performance

2.1 Aims, Priorities and Performance Indicators

2.1.1 Progress on Corporate Plan Performance Indicators (PI) is provided separately in [Performance reports to Audit Committee available online](#). Progress notes on our overall Corporate Plan aims and Climate Change priorities are also [available online](#), updated January 2024. (<https://sustainablemiddevon.org.uk/our-plan/#aims-priorities>)

2.2 The Council's Carbon Footprint

2.2.1 Annual [carbon footprint reports](#) (greenhouse gas accounting) are published on the Council's [Sustainable Mid Devon](#) website.

3.0 Community and partnership activities

3.1 Community engagement.

3.1.1 A number of Members and the C&S Specialist attended the Sustainable Tiverton's Community Forum (October) and aim to attend the February forum. The Cabinet Member and the C&S Specialist have been kindly invited to meet with Sustainable Crediton.

3.1.2 The C&S Specialist and the Cabinet Member for Climate Change liaised with a group of local landowners who aim to establish a [Natural Flood Management](#) (NFM) scheme on the River Exe and sent letters of support for their funding bid to the Defra / Environment Agency NFM Programme. This presents potential for partnership work on shared strategic aims.

3.1.3 The Customer Engagement Coordinator (Housing and Property Services), Parks and Open Spaces Officer, and the C&S Specialist, met with volunteers from Sustainable Tiverton and the Mid Devon Parish Wildlife Wardens to discuss opportunities for biodiversity benefits and community engagement with nature at Council-owned land e.g. with Tiverton Tree Team. This builds on achievements such as Community Orchards and community tree planting and the potential for further joint effort with community groups. Considering suitable tree planting locations - an opportunity to plant a new community orchard on HRA land has been identified.

3.1.4 Tenant Engagement. The wildlife area at Willand is complete, a local tenant has planted an array of bushes, trees and wildflowers. Hedgehogs occur at the site and we are excited to see how the space develops. Wildflower plugs have been grown and planted by Bickleigh residents on the HRA land grass verge at Bell Meadow. Newton Environmental Wellbeing Group continue to successfully look after the orchard planted last year.

3.1.5 Further engagement over potential opportunities across the district will be considered around the 2024 State of the District debate with Parish and Town Councillors.

3.1.6 Since the Council's Bin-It-123 waste collection cycles were launched in October 2022, household recycling rates have improved by circa 2% and residual waste volumes reduced - both of which cut the district's greenhouse gas emissions. Average residual waste per household dropped from 364.5 kg (2021/22) to 327 kg (2022/23).

- 3.2 Partnership work.
- 3.2.1 Blackdown Hills National Landscape (BHNL). Mid Devon's only 'Area of Outstanding Natural Beauty' was rebranded as a National Landscape in November, in line with all England and Wales AONBs. A review of the Blackdown Hills Management Plan is under way (officers and Members will be encouraged to engage). Grants are available for tree planting, flood alleviation and enhancing biodiversity, particularly on hillside areas around the Upper Culm. Engagement with the Blackdown Hills Parish Network and participation in the BHNL Joint Advisory Committee is ongoing.
- 3.2.2 Private sector housing. The Council has proactively established support for [energy efficiency grants and advice](#) and the [ECO4](#) grant schemes.
- 3.2.3 The Council is on the Energy Saving Devon Partnership - active on interconnected issues such as healthy homes, trading standards, grants and local advice services available. Visit www.energysavingdevon.org.uk for free guidance and resources.
- 3.3 Promoting local events, exemplars and projects.
- 3.3.1 Online promotion continues through the Council's social media channels, engagement platform and the [Sustainable Mid Devon](#) website.

4.0 Corporate activities

- 4.1 Statutory duty: Biodiversity.
- 4.1.1 The Council's statutory duty to conserve and enhance biodiversity (habitats and species) is set out by the Environment Act 2021 and the amended Natural Environment and Rural Communities Act 2006 (NERC Act). This is known as 'the biodiversity duty'. The Department for Environment, Food & Rural Affairs (Defra) has published [guidance](#) on purpose and compliance.
- 4.1.2 The first consideration of action to take with regard to this duty has been carried out prior to the 01 January deadline and a [report](#) submitted to [Cabinet](#). The next step is to develop a policy framework and action plan, in consultation with committees and teams across the Council.
- 4.1.3 The Council must:
- a) Consider what it can do to conserve and enhance biodiversity.
 - b) Agree policies and specific objectives based on its consideration.
 - c) Act to deliver its policies and achieve its objectives.
 - d) [Report on its biodiversity duty actions](#). (Defra has [guidance](#) on this.)

- 4.2 Sustainability in Corporate Culture and Operations
 - 4.2.1 The Council has now switched to REGO-backed renewable electricity for all sites and this will continue through its 2024-2028 energy supply contract.
 - 4.2.2 The Council has announced completion of the [decarbonisation projects](#) at Lords Meadow Leisure Centre (now completely off gas) and Exe Valley Leisure Centre. Heat pumps capture free heat energy from the air and ground, assisted by renewable power from solar panels. This transition to sustainable energy and smart integrated management systems marks an important milestone on the Council's journey to Net Zero.
 - 4.2.3 The Council continues to install electric vehicle chargers for its fleet (own use only) at its bases and leisure centres. We secured funding of up to £350 per socket under the [Workplace Charging Scheme \(www.gov.uk\)](http://www.gov.uk).
 - 4.2.4 A focus on environmental benefits in our parks and open spaces management has achieved a number of no-mow zones and a hierarchy of mowing regimes – 2 cuts per year (14 nature conservation areas), 7 cuts per year (most areas including Housing) or 12 cuts per year (Amory Park sports field and formal parks at Westexe, People's Park, Newcombe's Meadow).
 - 4.2.5 The 2023 Staff Engagement Survey saw an excellent level of responses to questions with environmental, social and governance (ESG) topics. Over 50 responses were received for the question: "What one thing do you think Mid Devon District Council could do to help with Climate Change?" – and these will be used to inform further, participative engagement during 2024.
 - 4.2.6 Energy Champions staff engagement continues as a way to maintain a proactive energy saving culture. Activity has included raising tasks to address concerns e.g. lights left on, proactive exploration of best practice e.g. screens on standby vs switch off, and shared learning e.g. site tours. Group discussion led to themed activity in December 'woolly jumper week' to raise awareness on keeping warm and healthy and saving energy (Leisure teams also collected donations for local food banks).
 - 4.2.7 Climate and Sustainability Statements. Cabinet approved the corporate guidance submitted via the Environment PDG, and this has now been adopted into report-writing and project business case methods.
- 4.3 Sustainability in the Local Economy, Planning and Development.
 - 4.3.1 The Environment PDG is advised to note that the Council's Planning Policy Advisory Group will be engaged with ongoing work for the new Local Plan for Mid Devon throughout the plan making programme, and will be responsible for making recommendations to the Cabinet over the coming months at key stages in the plan's preparation. All Members are welcome to attend

meetings of the Planning Policy Advisory Group and participate in the discussions about the new Local Plan.

- 4.3.2 Zed Pods are now fully installed at Cullompton, making 6 new homes. Tiverton's Shapland Place has 8 new Zed Pod homes being installed.
- The Council's Zed Pods are superbly insulated and energy-efficient to enable Net Zero carbon living, fitted with solar panels, heat recovery systems to help warm or cool the home, and water-saving features.
 - Constructed off-site and installed with the help of local contractors.
 - Such high standard projects demonstrate the feasibility of green homes and help set higher expectations for future developments in the district.
- 4.3.3 The Council won the "Partnership Initiative of the Year" category in the British Construction Industry Awards 2023 for these first Zed Pod projects.
- 4.3.4 The government's Brownfield Land Release Fund (BLRF2) has awarded the Council [£660k](#) for an extra 50 Zed Pod homes at 6 locations.
- 4.3.5 Central government has pledged funding for the [railway station](#) and the [motorway](#) junction improvements at Cullompton.
- 4.3.6 Planning teams have attended a training workshop on Biodiversity Net Gain with Devon County Council's Principal Ecologist. Defra funding supports in-house capacity and service support as teams prepare for the new scheme.
- 4.3.7 As Defra finalises details of [Biodiversity Net Gain](#) (BNG) legislation, work is under way to officially register 'biodiversity banks' in the district. These private land assets, if suitably assessed and registered, potentially offer gains where on-site gains are unachievable (developers can buy BNG units).

Financial Implications. The financial implications associated with this report are the overall costs of the Climate and Sustainability Programme, budgets linked specifically to the Council's Corporate Plan, Climate Strategy and CAP.

Legal Implications. The Council's environmental sustainability duties are underpinned by legislation e.g. [Environment Act 2021](#). All local authorities have obligations under the [Climate Change Act 2008](#) with regard to climate change adaptation (resilience) and mitigation (emission reductions). [Full Council declared a Climate Emergency in June 2019](#).

Risk Assessment. Progress on Performance Indicators (PI) provided separately by Performance and Risk Reports. There are 2 main risks (to the Council): 1) that the Council does not take sufficient actions to enable it to meet its Climate Emergency declaration ambitions; and 2) that the financial implications of Climate Change are not adequately measured and reflected in the Council's decision making.

Impact on Climate Change. The role of the Climate and Sustainability (C&S) Specialist in support of the corporate officer team is central to the Council's Climate and Sustainability Programme by actions such as the development of strategic positions and delivery of projects through internal, community and partnership work.

Equalities Impact Assessment. There are no equality impacts associated with this report. Specific projects and policies are subject to the Public Sector Equality Duty. (Assessing the equality impacts of proposed changes to policies, procedures and practices is not only a legal requirement, but also a positive opportunity for authorities to make better decisions based on robust evidence.)

Relationship to Corporate Plan. Please refer to Section 2, paragraphs 2.1 - 2.2.

Section 3 – Statutory Officer sign-off / mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151.
Date: 12 Jan 2024

Statutory Officer: Philip Langdon
Agreed on behalf of the Monitoring Officer.
Date: 15 Jan 2024

Chief Officer: Richard Marsh
Agreed by or on behalf of the Chief Executive/Corporate Director.
Date: 12 Jan 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager.
Date: 09 Jan 2023

Cabinet member notified: Yes.

Report: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. No.

Appendix: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. No.

Section 4 - Contact Details and Background Papers

Contact: Jason Ball, Climate and Sustainability Specialist: Email: JBall@MidDevon.gov.uk Tel: 01884 255255.

Background papers: The previous report was provided to the [Environment Policy Development Group](#) on [10 October 2023](#). Biodiversity statutory duty [report](#) submitted to [Cabinet 09 January 2024](#).

Report for: Cabinet

Date of Meeting: 09 January 2024.

Subject: The statutory duty to conserve and enhance biodiversity.

Cabinet Member: Cllr Natasha Bradshaw, Cabinet Member for Climate Change.

Responsible Officer: Jason Ball, Climate and Sustainability Specialist.

Exempt: None

which are Exempt from publication under paragraph 3, Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)

Wards Affected: Whole District

Enclosures: None.

Section 1 – Summary and Recommendation(s)

To update Cabinet on the work underway in relation to the Council’s statutory duty to conserve and enhance biodiversity and the timeline for progression of the work.

This paper summarises the nature of the statutory duty, explains key requirements, and frames expectations of how to formulate action. It seeks to clarify the difference in roles between the Local Planning Authority (LPA) (statutory decision maker on planning applications) and the Corporate entity of MDDC with its associated role as land / property owner and developer.

Recommendation(s):

- 1. To note that the Cabinet Member for Climate Change has submitted comment on this matter (to the Climate and Sustainability Specialist preliminary briefings) as the first consideration of what action to take with regard to this duty.**
- 2. To note that action and policy development will be split into two separate streams: either matters within the Council’s statutory**

Planning Policy making process and the statutory powers as a Local Planning Authority (largely governed and prescribed by national policy and through the work of the Forward Planning and Development Management teams); or items outside those functions, such as land and built asset management and its wider corporate operations.

- 3. To note that the responsibility to deliver on the general biodiversity duty is shared across all Council operations. As such, this matter will be raised on agendas for all Policy Development Groups (PDGs) and, where within the jurisdiction of the LPA, the Planning and Policy Advisory Group (PPAG) to request input to the policy framework and action plan.**
- 4. That Cabinet delegates authority to the Cabinet Member for Climate Change, the Director of Place and the Climate and Sustainability Specialist to develop a policy framework and action plan in consultation with staff and Council bodies as above, then recommendations brought to Cabinet.**

Section 2 – Report

1.0 Introduction

- 1.1 The Council has a statutory duty to conserve and enhance biodiversity (habitats and species) as set by the Environment Act 2021 and the amended Natural Environment and Rural Communities Act 2006 (NERC Act). This is known as ‘the biodiversity duty’. The Department for Environment, Food & Rural Affairs (Defra) has published [guidance](#) on purpose and compliance.
- 1.2 The Council, as a local authority, must:
 - a) Consider what it can do to conserve and enhance biodiversity.
 - b) Agree policies and specific objectives based on its consideration.
 - c) Act to deliver its policies and achieve its objectives.
 - d) [Report on its biodiversity duty actions](#). (Defra has [guidance](#) on this.)
- 1.3 The Council must, as part of their strategic assessment of their functions, have regard to any relevant Local Nature Recovery Strategies (LNRSs), Species Conservation Strategies and Protected Site Strategies (introduced in the Environment Act).
- 1.4 Practical [actions](#) to achieve objectives could cover the full range of relevant Council activities such as:

- land under its ownership or management;
- built asset management;
- corporate policies and practices e.g. for water and natural resources, waste, artificial lighting, sustainable procurement;
- supporting the management plans for Protected Landscapes (Blackdown Hills National Landscape);
- community engagement;
- partnership working;
- development plans, planning advice and decisions (LPA activity);
- delivery of Biodiversity Net Gain (BNG) – separately both as LPA and landowner/developer.

1.5 The biodiversity duty is relevant when complying with requirements under:

- a) [strategic environmental assessment](#)
- b) [environmental impact assessment](#)
- c) [Habitats Regulations assessment](#).

2.0 Background

2.1 The [legislation's explanatory notes](#) (Part 6, section 102) carry key points:

2.1.1 A requirement for public authorities to assess how they can take action to conserve and enhance biodiversity, and then take these actions (beyond simply discharging its duties as the Local Planning Authority).

2.1.2 The aim is to provide for the enhancement or improvement of biodiversity, not just its maintenance in its current state.

2.1.3 To comply, a public authority must periodically consider the opportunities available across the full range of its functions. This represents a proactive, strategic assessment of a public authority's functions, rather than considering each function in isolation.

2.1.4 The Council may decide there is no action it can reasonably take that is consistent with the proper exercise of its functions. For example, if particular action is not possible within budget constraints, not good value for money or conflicts with other priorities. However, if there is action it can take, then it must decide how that action can be put into effect, through appropriate policies and objectives (and the legislation then requires the public authority to take the action).

2.1.5 It is possible the duty can be satisfied by adjusting existing policies and objectives, rather than requiring public authorities to introduce new policies or undertake new projects.

2.1.6 Subsequent assessments and action planning must take place at least every five years (or sooner); then decisions around policies and objectives should follow as soon as is practically possible.

3.0 Notes the Council could consider on drafting a Framework for Policies.

3.1 The Council shall establish district targets considered to be aligned with (i.e. will contribute positively towards) the requisite goals set out by government legislation and guidance. Targets should be achievable or surpassable, assuming a favourable strategic environment (with appropriate government funding, etc.).

3.2 When shaping or reviewing Council policy, the responsible body shall consider the potential for policy to contribute towards the biodiversity duty. New policy recommendations should come with a note to confirm whether this duty has been considered (e.g. as part of a climate and sustainability statement) and to highlight relevant points that might be taken forward to support the biodiversity duty framework.

3.3 The Council shall seek opportunities for external funding and non-financial support for its biodiversity duty work, such as tree planting grants, land management payments, partnership working, volunteer help and donations. Constraints on Council resources are recognised as a potential barrier.

3.4 Partnership work is recognised as a vital success factor, particularly with regard to the fact that its land ownership is a small fraction of the district. The Council would support knowledge exchange with partners and other authorities.

3.5 The Council will set out a schedule of suitably resourced work to monitor and review progress towards its district targets.

3.6 Principles of additionality and traceability should be observed in order to avoid double-counting the same gains and to attribute achievements correctly. (For example - landscape scale partnership schemes might combine many projects resourced in several ways, but if certain works were done specifically to deliver planning permission Conditions or BNG, this should be made clear in the data reporting.)

3.7 Methodology for monitoring, evaluations and reporting should comply with [national guidance](#) (Defra). Metrics for “gains” should be viable and comparable, such as with the current / contemporary Defra BNG metric. Progress evaluations should relate to a suitable baseline for data comparison (such as 2021 when the Environment Act was passed).

4.0 Notes the Council could consider on drafting a Framework for Actions

4.1 The Council can take action on a range of distinct levels:

- areas we directly control or manage;
- areas we directly manage or influence through procurement and contractual agreements;
- areas we enable or support through policy and regulatory systems (i.e. such as through the formal planning system and the LPA role.)
- areas we can enable or support through funding;
- strategic influence through engagement and partnership;
- wider indirect influence through requests and lobbying.

4.2 Continuation of the 'status quo' in activities might be unlikely to contribute to an enhancement of Mid Devon's natural heritage, except in cases where this is a specific aim, such as the BNG requirements in planning.

4.3 Current, planned or imminent Council activities considered to contribute to the biodiversity duty include:

- a) the delivery of BNG requirements in Planning (statutory work which the LPA is already duly considering);
- b) the delivery of Local Nature Recovery Strategy (statutory work);
- c) a significantly reduced frequency of grass mowing on Council land (changes in management regimes achieved since 2021);
- d) A number of suitable areas have been removed from routine grass cutting and are now maintained on a conservation regime primarily managed for biodiversity (changes in management regimes achieved since 2021);
- e) a significantly reduced use of herbicides on Council land (changes in management regimes achieved since 2021);
- f) the Tree Policy guides tree management on Council land and those that are afforded protection under Planning legislation i.e. Conservation Order or Tree Preservation Order.
- g) Investigate the potential for the Council to set up one or more Habitat Banks and sell credits for situations where BNG is provided off site through new development.
- h) Continuation of partnership working e.g. with Connecting the Culm, with the Creedy Crayfish Project, or the Blackdown Hills National Landscape. Seek to support and help shape emerging opportunities led by landowners and other agencies e.g. Natural Flood Management.

4.4 Potential new actions **outside** statutory Planning Policy / LPA duties and powers that could contribute to the general biodiversity duty include:

- a) Enhanced investment in land management for nature recovery.
- b) Promote ecologically restorative projects and the creation of nature reserves on land either in Council, joint or private ownership.
- c) The Council could investigate the potential costs, benefits and implications of a biodiversity gain target for its own land, at suitable sites.
- d) Council policy could ensure that, for example, when parks and open spaces ownership or management responsibility is given over to other parties, that arrangements or agreements are made, where practicable, to safeguard progress. (That land use regimes will not be less favourable to biodiversity.)
- e) Publish a tree and woodland management strategy for Mid Devon. This should respond to the Devon Tree and Woodland Strategy. The strategy should aim to examine what we have, management in place (private and public) and identify threats and opportunities (very brief summary).
 - Following on from the above strategy, look at opportunities to boost woodland management across the district to enhance biodiversity.
 - Create a list of preferred planting stock e.g. species and provenance that will reflect the local character and noted for their biodiversity value.
- f) Revised Mid Devon Tree Protection Order (TPO) Guidance. Seek to afford suitable trees with TPOs in localities where they are not within conservation area. Amend local guidance on evaluation / amenity scoring to include climate change and ecological considerations.

4.5 Potential new actions **within** statutory Planning Policy processes and powers that could contribute to the general biodiversity duty include:

- The new Local Plan review timeline is a key opportunity to embed the duty, thinking more broadly than BNG when shaping policy. A suitable scope of activity could include, e.g. shaping practice to improve biodiversity benefits, or specific measures to benefit Mid Devon priorities (such as bespoke mitigation and enhancement measures to address nutrient or disturbance issues for particularly sensitive sites) additional to national requirements. These matters can be discussed with PPAG, drawing on relevant advice and guidance from technical specialists as required.

4.6 Notes on setting and enabling achievable ambitions with lasting effect.

- a) The Council could devise ways to channel funding into schemes under its management or within its influence (managed by partners) such as through community fundraising, investor initiatives, BNG or bespoke agreements.
- b) Funding will be crucial to enable some or all proposals raised. The Council should evaluate which actions to prioritise (e.g. some might become committed goals whilst others remain aspirational or heavily dependent on external factors or finance).
- c) Partnership work offers ways to achieve more and overcome gaps in capacity e.g. by supporting the roles, perspectives and expertise of partners.
- d) Draft project proposals could be devised in readiness for funding opportunities that become available to the Council or partners.
- e) Volunteer engagement could serve to expand the potential range and scale of nature conservation activities, education and study in the district. Seeking biodiversity opportunities could help identify links with local projects to achieve co-benefits e.g. wellbeing and community pride initiatives.

5.0 Progress and next steps

- 5.1 Preliminary work involved briefings, a discussion paper and draft report circulated internally including with the Corporate Management Team (CMT), Forward Planning team, Tree Officer and the Parks and Open Spaces Officer.
- 5.2 The Cabinet Member for Climate Change submitted comment on this matter as the first consideration of what action to take with regard to this duty. Cabinet 12 December 2023 received a verbal update from the Cabinet Member.
- 5.3 Next steps:
 - report circulated to key officers across teams;
 - report circulated to PDGs and PPAG asking for recommendations;
 - Cabinet Member takes a report to Environment PDG (23 Jan 2024);
 - verbal update to Cabinet (06 Feb 2024);
 - Cabinet would seek to consider recommendations by the end of this Administrative year cycle (April 2024) to enable a plan to be finalised.

Financial Implications

None for this paper. Future decisions and actions should be considered for their potential financial implications.

Legal Implications

The general duty to conserve and enhance biodiversity is set out in the Environment Act 2021 and the Natural Environment and Rural Communities Act 2006 (NERC Act) as amended.

Mid Devon as LPA has set duties to discharge in line with national policy and this is separate and distinct from anything which the authority chooses to do as a corporate land/property owner.

Risk Assessment

Failure to comply with legislation could result in the Council facing legal action. Delivering well on the biodiversity duty would contribute to nature recovery with particular regard to national and local strategic targets (better biodiversity); failure to act could result in 'status quo' or worse rates of biodiversity decline (targets missed), potentially with consequences for ecosystem services in the district and beyond.

Impact on Climate Change

None for this paper. Future decisions and actions should be considered for potential climate impacts (for example, carbon cycle processes depend on the health of ecological systems). Ecological recovery is viewed as an important part of achieving climate change resilience, whilst biodiversity decline has a negative effect.

Equalities Impact Assessment

None for this paper. Future work will be fully considered for potential impacts and benefits.

Relationship to Corporate Plan

Corporate Plan priorities include (Env 03) 'Identify opportunities to work with landowners to secure additional hedgerow planting, biodiversity and reforestation.' There are also potentially co-benefits for other Council priorities, for example nature recovery can benefit health, community wellbeing and the economy.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 12 Jan 2024

Statutory Officer: Philip Langdon
Agreed on behalf of the Monitoring Officer
Date: 15 Jan 2024

Chief Officer: Richard Marsh
Agreed by or on behalf of the Chief Executive/Corporate Director
Date: 12 Jan 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager
Date: 22 Jan 2023

Cabinet member notified: Yes.

Section 4 - Contact Details and Background Papers

Contact: Jason Ball, Climate and Sustainability Specialist. Email: JBall@MidDevon.gov.uk Telephone: 01884 255255.

Background papers: None.

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Report for: Environment PDG

Date of Meeting:	23 January 2024
Subject:	Environment and Education Policy Review
Cabinet Member:	Cllr Josh Wright, Cabinet Member for Environment and Services
Responsible Officer:	Luke Howard, Environment and Enforcement Manager
Exempt:	N/A
Wards Affected:	All
Enclosures:	Appendix A- Stray Dog Policy Appendix B- Littering from Vehicles Policy Appendix C- Compulsory Recycling Policy Appendix D- Fly Tipping Policy Appendix E- Abandoned Vehicles Policy Appendix F- Littering Policy

Section 1 – Summary and Recommendation(s)

This report reviews current policies and recommends amendments as highlighted to the littering policy

Recommendation(s):

- (a) **Litter Policy to be implemented to reflect Defra guidance on Proportionate, Effective, Targeted, Transparent and Consistent approach to littering offences (Appendix F)**
- (b) **Amend the Fixed Penalty Notice (FPN) for littering to include a 50% discount for a period of 14 days from the date of the offence**
- (c) **Review and approve wording simplification:**
 - 1. **Stray Dog Policy (Appendix A)**
 - 2. **Littering from Vehicles (Appendix B)**
 - 3. **Compulsory Recycling (Appendix C)**
 - 4. **Fly Tipping minor wording amendment regarding FPN value (Appendix D)- Note Only- Agreed at Cabinet on 12 December 2023.**
- (d) **Approve Abandoned Vehicle policy wording changes (Appendix E)**

Section 2 – Report

1.0 Introduction/Background

- 1.1 The Street Scene Environment and Enforcement Team, together with Legal Services, have undertaken an internal review of its current policies in line with existing Government legislation so that they are up to date and fit for purpose.
- 1.2 The current fixed penalty rate for the offence of littering within Mid Devon is set at £150, with no discount included. The admission of a discounted period raises questions regarding socio-economic barriers by way of the ability to pay.

2.0 Proposed amendment to the Littering Policy (Appendix F)

- 2.1 A clearer definition around the legality of littering and the environmental impact this offence has, is required. Public understanding of the detrimental impact of littering is crucial in order to change behaviours. This includes highlighting the impact of small scale littering such as dropping of crisp packets or cigarette ends, which is often disregarded as incidental by many.
- 2.2 Inclusion of Defra guidance in relation to how Mid Devon District Council apply the legislative functions of littering is made clear. An explanation regarding the proportionate approach of the authority and guidance on how to dispose of litter provides educational and preventative measures.
- 2.3 Amending the current Fixed Penalty Notice (FPN) charge would enable the authority to remove any socio-economic issues, which could currently occur. It could be seen that those of lesser financial standing or means, may be forced under the current policy into being prosecuted by a court of law due to their inability to discharge liability with the current cost of the FPN. Inclusion of a 50% discounted rate for a period of 14 days enables the authority to show proportionate measures in respect of littering. Discounted periods have shown to increase the percentage of payments against such fines. This can be seen within MDDC via the penalty charge notices issued within car parks. With a larger percentage of payments being made, there are less financial implications on the authority. The cost and time implications of preparing court documents, court fees and legal costs in bringing a prosecution can be reduced significantly. A discounted period is recommended by Defra and is in keeping with many authorities locally and nationally. The issue of proportionality also needs to be considered in relation to this. Offering a 50% discounted 14-day period, highlights the offence, but offers the offender a more proportionate rate to discharge their liability.

3.0 Fly Tipping (Appendix D)

- 3.1 The Fly Tipping policy has a minor amendment regarding the Fixed Penalty Notice value in respect of sliding scale, which is proposed to be delegated to the Environment and Enforcement Manager to determine. This was agreed at Cabinet 12 December 2023 and is for note only.

4.0 Littering From Vehicles (Appendix B)

4.1 The Littering from Vehicles policy has wording simplification improvements.

5.0 Compulsory Recycling (Appendix C)

5.1 The Compulsory Recycling policy has wording simplification improvements.

6.0 Stray Dog (Appendix A)

6.1 The Stray Dog policy has wording simplification improvements.

7.0 Abandoned Vehicles (Appendix E)

7.1 The Abandoned Vehicles Policy has minor word amendments to enable the policy to be more descriptive in approach. Legislative elements remain unchanged.

8.0 Recommendation

For members to agree recommendations (a) to (d)

Financial Implications

Recovery rate for Fixed Penalty Notices regarding littering is likely to increase with the introduction of a 50% discounted period.

Legal Implications

The Authority has a statutory duty to enforce environmental offences under the Environmental Protection Act 1990, Road Traffic Regulation Act 1984, Refuse Disposal Amenity Act 1978, Littering from Vehicles Outside of London Regulations 2018 and Anti-Social Behaviour, Crime and Policing Act 2014. If legalisation changes and MDDC policies are not updated this may leave the Council at risk of not being able to enforce infringements which could result in reputational damage for not taking the appropriate action against offenders.

Risk Assessment

Proposed amendments would see Mid Devon District Council operating in parity to other district authorities in Devon and Cornwall. The introduction of a 50% discount is in line with most enforcement authorities in England and removes the current exclusions to those who are of lesser means to pay.

Impact on Climate Change

The amendments are focussed on updating policy to provide a better understanding of the service approach to environmental crime. This should provide a positive impact of climate and awareness of such issues.

Equalities Impact Assessment

The current Littering FPN cost provides those of more affluent means the ability to discharge liability for offences, however, those of restricted or lower incomes, could be forced into prosecution due to there not being a discounted rate.

Relationship to Corporate Plan

The amendments are focused on improving the service's approach and transparency to members of the public. A direct result of these changes should realise a positive impact on environmental issues and education in respect of environmental crime.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 12 Jan 2024

Statutory Officer: Philip Langdon

Agreed on behalf of the Monitoring Officer

Date: 15 Jan 2024

Chief Officer: Richard Marsh

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 12 Jan 2024

Performance and risk: Stephen Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 15 Jan 2024

Cabinet member notified: yes

Section 4 - Contact Details and Background Papers

Contact: Luke Howard, Environment and Enforcement Manager

Email: lhoward@middevon.gov.uk

Telephone: 01884 233033

Background papers:

Stray Dog Policy

Date of Issue: January 2020

Reviewed: December 2023

Review date: December 2026

Contents

- 1.0 Introduction
- 2.0 The principle
- 3.0 The Legislation and process
- 4.0 First Occasion of a stray dog
- 5.0 Returning Dog
- 6.0 Kennelling fees
- 7.0 Out of Hours
- 8.0 Recovery and Payments
- 9.0 Unclaimed Strays
- 10.0 Contact Details

Appendix A - Microchipping Procedure

Appendix B - Collar and Tag Procedure

1.0 Introduction

- 1.1 The Environmental Protection Act (1990) referred to as 'The Act' provides that every local authority shall appoint an officer (the Officer) "for the purpose of discharging the functions for dealing with stray dogs found in the area of the authority".
- 1.2 The Officer may delegate the discharge of his functions to another person but he shall remain responsible for securing that the functions are properly discharged.
- 1.3 Mid Devon District Council has appointed [District Officers (DO)] Delegation of functions/duties has been made to District Officers under the Act

2.0 The principle

- 2.1 Mid Devon District Council (MDDC) is responsible for the seizure and transport of stray dogs:
 - Patrolling the District and enforcement of dog fouling legislation;
 - Encouraging responsible dog ownership through presentations and talks;
- 2.2 Members of the public who find a stray dog should either return it to its owner, or report it to the local authority. The finder will be contacted within an hour. MDDC does supply a collection service during normal working hours¹ and will endeavour to collect the dog by the end of the day.

3.0 The legislation and process

- 3.1 Where the officer or a DO has reason to believe that any dog found in a public place or on any other land or premises is a stray dog, he or she shall (if practicable) seize the dog and detain it, but, where he or she finds it on land or premises which is not a public place, only with the consent of the owner or occupier of the land or premises. Current legislation requires a dog in a public place to be fitted with a collar and tag bearing the name and address of the owner (see also microchipping policy). Where a stray dog has been seized under the Act and has a form of identification, or the owner of the dog is known, the (DO) will serve on the owner a statutory notice in writing stating that the dog has been seized and where it is being kept and stating that the dog will be liable to be disposed of if it is not claimed within seven clear days after the service of the notice and the amounts for which he/she would be liable are not paid. The amounts for which the owner is liable is the expenses incurred by reason its detention and a further amount prescribed by regulations
- 3.2 The owner of a stray dog is 'not entitled' to the return of the animal until they have paid the amounts owing. Should the dog not be claimed or the owner

¹ Normal working hours between 9:00am – 17:00pm Monday to Friday

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.

4.0 First occasion of a dog being found stray

4.1 Where a stray dog is found and the owner is known or can be easily identified MDDC will consider on the first occasion that a dog is found, identifying the owner and returning the dog to them without cost to the owner before formal seizure of the dog takes place under the Act. DO's carry a scanning device to identify dogs fitted with a microchip. If contact is made, the dog will be returned to the owner. This will not be the case where the authority has had to place the dog in kennels and subsequently attracted costs, in this circumstance the owner will be liable to repay the costs incurred by the authority

5.0 Returning a dog

5.1 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 or with any person under the age of 18 years of age.

5.2 MDDC currently insists on payment via or debit/credit card for the full amount (statutory fee, handling fee, kennelling fees, plus any veterinary costs incurred) **before a stray dog is released to a claimant.** Once all fees are paid the District Officer will arrange to deliver the dog back to the owner. The owner will be required to be at home to receive the dog and sign for its receipt.

6.0 Kennelling Fees

6.1 Kennelling fees charged by the contractor plus an additional administration fee need to be paid.

7.0 Out of Hours

7.1 Stray dogs will be collected until 6pm. Outside of these working hours the finder will need to take the dog to a local vet service or to meet with the kennelling facilities. Resource for stray dogs will not be available between the hours of 5pm and 10am except in special circumstances. After 6pm details of the finder will be taken by the Council's Emergency out of Hours service and arrangements will be made with the registered kennels for the dogs to be collected from a designated collection point. .

8.0 Recovery and Payments

- 8.1 Stray dogs will be returned to the owner during office hours to enable payment to be made. Alternatively the owner can collect the dog from the Council's offices at Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP.
- 8.2 Detained dogs will not be released by MDDC until all costs incurred are paid in full (statutory administration fee, handling fee, kennelling fees, plus any veterinary costs incurred) in line with the contractor's fees. During office hours payment can be made via the telephone to Customer Services (01884 255255) or payment can be made on line at <https://www.middevon.gov.uk/do-it-online/miscellaneous/pay-for-it-online/>

9.0 Unclaimed Strays

- 9.1 Stray dogs are held for a minimum period of seven clear days following seizure, or following service of a notice of seizure, whichever is the latest. After this period, ownership of the dog reverts to MDDC. The Officer may cause a dog detained under this Act to be destroyed before the expiration of the seven clear days above where he or she is of the opinion that this should be done to avoid suffering
- 9.2 Section 149(6) of The Act entitles MDDC to deal with unclaimed stray dogs in one of three ways:
- By selling it or giving it to a person who will, in his opinion, care properly for the dog;
 - By selling it or giving it to an establishment for the reception of stray dogs; or
 - By destroying it humanely and by a qualified veterinary surgeon

No dog shall be sold or given for the purposes of vivisection.

- 9.3 Once transferred to MDDC or re-homed to a new owner, the former owner of a stray dog has no legal claim for the return of the animal.
- 9.4 The details of the person to whom ownership is transferred by MDDC are required to be recorded on a public register. Under normal circumstances, the majority of unclaimed strays are re-homed and therefore it is this information which is recorded in the public register, rather than any subsequent new owner. The register is available for public inspection.
- 9.5 The Act requires the Officer to ensure any dog detained under the Act to be properly fed and maintained.

10.0 Contact details

- 10.1 Lost or found dogs – telephone Customer First, 01884 255255 (*24 hours a day*)

Appendix A - Microchip procedure



Microchipping Procedure

Date of Issue: January 2020

Reviewed: March 2023

Review date: March 2026

Contents

- 1.0 Introduction
- 2.0 The Legislation
- 3.0 Microchipping
- 4.0 Database
- 5.0 Change of Keeper
- 6.0 Offences
- 7.0 Time limits and Penalties
- 8.0 Appeals

1.0 Introduction

- 1.1 On the 6th April 2016 it became compulsory for dogs to be microchipped.
- 1.2 The permanent identification of dogs through microchipping not only has the benefit of allowing lost and stolen dogs to be re-united with their owners quickly but will encourage responsible ownership, deter dog theft and help tackle puppy farming and the associated problems.
- 1.3 Microchipping also has a number of animal welfare benefits including the swift contact of owners by veterinary surgeons for emergency procedures (for example dogs that have been involved in road accidents), easy identification of dogs in properties in emergency situations so that dogs and owners can be moved and reunited quickly and the easy identification of owners involved in animal cruelty complaints.
- 1.4 Alongside Mid Devon District Council's (MDDC's) statutory function to seize stray dogs, District Officers also work closely with MDDC's Licensing Department, Neighbourhood Officers and the Police.

2.0 Legislation

- 2.1 The Microchipping of Cats and Dogs (England) Regulations 2023/468 (the "Regulations") revoke and replaced previous regulations made in 2015.
- 2.2 Under the Regulations a keeper means:
- 2.3 In relation to an assistance dog (within the meaning of section 173 of the Equality Act 2010):
 - while the dog is training to work, or is working, as an assistance dog, the body responsible for the dog's training and allocation
 - After the dog has ceased working as an assistance dog, the person with whom it normally resides;
- 2.4 In relation to a new born puppy:
 - The owner of the bitch which gave birth to it;
- 2.5 In relation to any other dog:
 - the person with whom it normally resides.

3.0 Obligation to microchip dogs

- 3.1 Every keeper of a dog which is older than 8 weeks and not a certified as a working dog under the Animal Welfare Act 2006 must ensure that it is microchipped.
- 3.2 Where a keeper imports a dog, the keeper must ensure that it is microchipped within thirty days of its entry into England, regardless of its age.
- 3.3 However this does not apply for as long as a veterinary surgeon certifies (“Vet Certificate”) on a form approved by the Secretary of State, that the dog should not be microchipped for reasons relating to the health of the animal.) A certificate issued must state the period for which the cat or the dog will be unfit to be microchipped.

4.0 Database

- 4.1 Where a keeper is under an obligation to ensure that a dog is microchipped, the keeper must make sure that the dog or cat is registered on a databases that meets the government standards.
- 4.2 The details that the keeper must record on a database are—
- (a) the full name and address of the keeper;
 - (b) if the keeper is also the breeder of that dog, that fact;
 - (c) if the keeper is the breeder of that dog and is licensed by a local authority under regulation 4 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018— (i) the breeder's licence number; and (ii) the name of the local authority which issued the licence;
 - (d) the original name or identification number given to the dog;
 - (e) the contact telephone number (if any) for the keeper;
 - (f) any other name given to the dog by the keeper if that name is different to the dog's original name;
 - (g) the sex of the dog;
 - (h) the breed of the dog, or a description if it is a cross-breed;
 - (i) the colour of the the dog;
 - (j) the date of birth of the dog to the best of the keeper's knowledge;
 - (k) the unique number of the microchip implanted in the dog.

"breeder" means any keeper of a bitch which whelps, whether or not they carry on a business as a breeder of dogs.

5.0 Change of keeper

- 5.1 Where a dog is transferred to a new keeper, the new keeper must (unless the previous keeper has already done so) record their full name, address and contact telephone number (if any) and any change in the dog's name with the database on which the dog's details are recorded.

- 5.2 No keeper may transfer a dog to a new keeper until it has been microchipped unless a Vet Certificate is in force for that dog..
- 5.3 Powers of “authorised persons”
- 5.4 In order to enforce the Regulations District Officers are authorised in writing by the Council as “authorised persons” in their roles as District Officers.
- 5.5 A District Officer may, on producing the relevant written authorisation or another official identity document, take possession of a dog without the consent of its keeper for the purpose of checking whether the dog is microchipped.
- 5.6 Where a dog has not been microchipped and a Vet Certificate is not enforce , the District Officer may—
- (a) serve on the keeper of the dog which has not been microchipped a notice requiring the keeper to have the dog microchipped within 21 days;
 - (b) where the keeper of the dog has failed to comply with a notice the District Officer may
 - (i) take all necessary steps to arrange for the dog to be microchipped without the consent of the keeper; and
 - (ii) recover from the keeper any costs associated with doing so.

6.0 Offences

- 6.1 Offences that will relate to MDDC enforcement role are –
- 6.2 Failure to transfer a dog to a new keeper without a microchip (unless a certificate has been issued stating that the dog should not be microchipped for health reasons)
- 6.3 Failure to comply with a notice served by an authorised person requiring dog to be microchipped within 21 days
- 6.4 Obstructing an authorised person who is arranging for the dog to be microchipped, recovering the cost of doing so and/or taking possession of a dog for the purposes of microchipping.

7.0 Time limits and Penalties

- 7.1 The above offences are punishable on summary conviction (Magistrates) by a fine not exceeding level 2 (£500) on the standard scale with a 6 month time limit upon discovery of an offence to commence a prosecution).

8.0 Appeals

- 8.1 A keeper may appeal to the First-tier tribunal against a notice served requiring the keeper to have the dog microchipped within 21 days.

- 8.2 An appeal suspends the effect of the notice appealed against until the appeal is determined or withdrawn.
- 8.3 On appeal the First-tier Tribunal may cancel, confirm or vary the notice appealed against.

Appendix B - Collar and Tag Procedure



Collar and Tag Procedure

*(To be read in conjunction with
Microchipping Procedure)*

Date of issue: January 2020

Reviewed: March 2023

Review Date: March 2026

Contents

- 1.0 Introduction
- 2.0 Legislation
- 3.0 Offences
- 4.0 Time limits and penalties
- 5.0 Procedure
- 6.0 Exemptions

Appendix 1 - Notice

Appendix 2 - Letter

1.0 Introduction

1.1 Mid Devon District Council (MDDC) as the local authority has a statutory function to seize stray dogs.

2.0 The legislation

2.1 The Control of Dogs Order 1992 came into force on 1 April 1992 and is made under section 13 of the Animal Health Act 1981. This Order is executed and enforced by Officers of Mid Devon District Council.

2.2 Article 2 (Wearing of collars by dogs) states that:

2.2.1 Every dog, whilst on a highway or in a place of public resort, shall wear a collar with the name and address of the owner inscribed on the collar, or on a plate or badge attached to it.

2.2.2 This does not apply to the following:

- Any packs of hounds
- Any dog while being used for sporting purposes
- Any dog while being used for the capture or destruction of vermin
- Any dog while being used for the driving or tending of cattle or sheep
- Any dog while being used on official duties by a member of Her Majesty's Armed Forces or Her Majesty's Customs and Excise or the police force for any area
- Any dog while being used in emergency rescue work
- Any dog registered with the Guide Dogs for the Blind Association.

3.0 Offences

3.1 The owner of a dog or the person in charge of a dog who, without lawful authority or excuse, proof of which shall lie on him/her, causes or permits the dog to be on a highway or in a place of public resort not wearing a collar as prescribed in article 2, shall be guilty of an offence under the Animal Health Act 1981.

3.2 Any dog in respect of which an offence is being committed under this Order may be seized and treated as a stray dog under section 149 of the Environmental Protection Act 1990.

4.0 Time limits and Penalties

4.1 Section 71A of the Animal Health Act 1981 (Time limits) states that time limits for offences are within the period of 3 years starting with the date of the commission of the offence and within the period of 6 months starting with the day on which evidence that the prosecutor thinks is sufficient to justify the proceedings comes to his knowledge.

4.2 Section 75 of the Animal Health Act 1981 states that a person guilty of an offence to which this section applies is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 Criminal Justice Act 1982 on the standard scale or to both.

5.0 Procedure

5.1 The Animal Health Act 1981 gives MDDC the power to pursue a prosecution against those who fail to comply with The Control of Dogs Order 1992.

5.2 Where a dog is seen without a collar or tag attached to it bearing details of the owner, as required by article 2 of The Control of Dogs Order 1992, the owner will be served with a Collar and Tag Notice.

5.3 This Notice gives the owner/person in charge of the dog 7 working days from the date of the Notice to provide evidence to MDDC that a collar and/or tag bearing the owner's name and address has been purchased. Upon presentation of the collar and/or tag, the Notice must be completed by the inspecting officer and no further action will be taken.

5.4 A record should be made of the service of this Notice and a copy kept on file.

5.5 Should the owner/person in charge fail to provide evidence within this time then a further Notice must be served with a letter as detailed in Annex 2 giving the owner/person in charge of the dog a further 7 working days to produce evidence of a collar and/or tag.

5.6 Failure to produce a collar and/or tag on this occasion will result in an investigation being carried out.

5.7 The owner/person in charge shall be invited to attend an interview carried out under the Police and Criminal Evidence Act 1984 and where there is evidence to suggest that an offence has been committed, the case should be forwarded to MDDC's Legal service for consideration.

Appendix 1 - Notice

	Street Scene Services Phoenix House Phoenix Lane Tiverton Devon EX16 6PP Tel: 01884 255255
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Ref:
 Name:
 Address:

At....(insert time)....hrs on....(insert date)....a....(insert description of dog)....owned by you/in your charge, was seen/found straying in....(insert location)....

The dog did not have a collar or tag attached to it bearing details of the owner as required by Article 2 of The Control of Dogs Order 1992.

Consideration will be given to prosecuting you for failing to comply with this requirement unless within 7 days of service of this Notice you attend the Mid Devon District Council office as above with a collar and/or tag bearing the owner's name and address (telephone number will suffice).

Signed: MDDC Officer:	Date:
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For office use only:

MDDC office - TAG SEEN AND CHECKED AS BELOW

Details on the tag: _____

Signed: MDDC Officer: (print name)	Date:
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Appendix 2 - Letter



INSERT ADDRESS

Street Scene Services
Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP
www.middevon.gov.uk

Our Ref: **INSERT NOTICE REF**

Contact:
Telephone 01884 255255
Email: streetscene@middevon.gov.uk

INSERT DATE

Dear Sir/Madam

ANIMAL HEALTH ACT 1981

THE CONTROL OF DOGS ORDER 1992

I write following on from our conversation on **(insert date)** when I issued you with a Notice under the above Order requiring you to present a collar and/or tag bearing your name and address (telephone number will suffice) for your dog. This Notice was served upon you following on from your dog **(insert name, sex, colour and breed description)** who was **seen/found/handed** into the custody of Mid Devon District Council on **(insert date)** without a collar and/or tag as required under The Control of Dogs Order 1992.

To date this Notice has not been complied with. I therefore enclose a further Notice requiring you to present a collar and/or tag bearing your name and address (telephone number will suffice) to Mid Devon District Council within 7 days of the date of the Notice. Failure to produce a collar and tag by this date may result in further enforcement action being taken.

I must take this opportunity to remind you that every dog while in a highway or in a place of public resort shall wear a collar with the name and address of the owner inscribed on the collar or on a plate or badge attached to it.

The owner of a dog or the person in charge of a dog who, without lawful authority or excuse, proof of which shall lie on him, causes or permits the dog to be in a highway or in a place of public resort

not wearing a collar as prescribed in article 2 of The Control of Dogs Order 1992 shall be guilty of an offence under the Animal Health Act 1981.

Contravention of The Control of Dogs Order 1992 is an offence against the Animal Health Act 1981. Upon conviction a Magistrates Court can order a fine of up to £5,000 and/or a term of imprisonment of up to 6 months.

Should you wish to discuss the contents of this letter please contact a Dog Warden on the above telephone number.

Yours sincerely

Street Scene Services

Littering from Vehicles Policy

Date of Issue: January 2020

Reviewed: October 2023

Review Date: October 2026

Contents

- 1.0 Introduction
- 2.0 Interpretation
- 3.0 Civil fixed penalties and enforcement
- 4.0 Penalty amounts and payment
- 5.0 Challenges to the Penalty Notice
- 6.0 Recovery of unpaid amounts
- 7.0 Authorised officers
- 8.0 Use of receipts
- 9.0 Exemptions
- 10.0 Representations and appeals

Appendix A - Timescales

1.0 Introduction

- 1.1 Mid Devon District Council (MDDC) is committed to reducing litter on roadsides and verges and will take enforcement action against those who litter from their vehicles.
- 1.2 The Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018 (SI 2018/171) came into force on 1 April 2018 to introduce new fixed penalty powers for littering from vehicles
- 1.3 A civil penalty is a civil fine, which unlike a criminal penalty, does not carry the risk of a criminal prosecution. The ‘keeper’ of a vehicle is presumed to be the ‘registered keeper’, but evidence may be provided showing that the vehicle was ‘kept’ by another person at the relevant time. The liability to pay the civil penalty rests with the keeper of the vehicle at the time of the offence.
- 1.4 Under section 89(1) of the EPA 1990 the District Council, as the local authority, has a general duty to keep land in its area clear of litter.

2.0 Interpretation

- “The EPA 1990” means the Environmental Protection Act 1990
- “Littering Regulations” means The Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018 (SI 2018/171)
- “FPN” means Fixed Penalty Notice
- “MDDC” means Mid Devon District Council
- “RUCS regulations 2019) means road user charging schemes (penalty Charges adjudication and Enforcement) (England) regulations 2013
- “Electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means

3.0 Fixed Penalty notices (FPN) and enforcement

- 3.1 MDDC may give a penalty notice, requiring payment of a FPN, to a person who is the keeper of a vehicle if it has reason to believe that a littering offence has been committed in respect of the vehicle on land within the MDDC area.
- 3.2 MDDC may cancel a penalty notice at any time by informing the recipient in writing.
- 3.3 A penalty can be issued either on the spot or through the post depending on the circumstances and type of offence.
- 3.4 Penalty notices will be issued when District Officers observe offences whilst on patrol or following an approach by members of the public willing to stand as witness in any subsequent Court action. MDDC may take enforcement action

based on CCTV evidence, provided the CCTV evidence is in accordance with RIPA¹

- 3.5 A penalty notice must not be given:
 - 3.5.1 After the end of the period of 35 days beginning with the day on which the littering offence in question occurred;
 - 3.5.2 If a FPN for the criminal offence of leaving litter under section 88 (1) of The Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018 has been given to a person in respect of the same offence (whether or not he/she is the vehicle's keeper); or
 - 3.5.3 If a prosecution has been brought against a person under section 87 of the EPA 1990 (Offence of Littering) in respect of the same offence (whether or not the person is the vehicle's keeper and whether or not the prosecution has concluded or was successful).
- 3.6 If MDDC issue a FPN and the recipient provides evidence as to the identity of the litterer, MDDC will consider whether this is a sufficiently compelling reason to cancel the original civil penalty. MDDC may also separately decide whether sufficient evidence has been provided to pursue criminal enforcement action (a fixed penalty notice or prosecution) against the alleged litterer.
- 3.7 Section 9 of this policy (exemptions) set out circumstances in which a person is not liable to pay a fixed penalty.
- 3.8 There are detailed rules contained in the litter regulations as to the contents of a penalty notice. MDDC will produce standard template notices in accordance with these rules.

4.0 Penalty amounts and payment

- 4.1 The amount of a fixed penalty set by MDDC under Section 88(6A) of the EPA 1990 is £150. In keeping with littering FPN, this will be subject to a 50 % reduction if paid within 7 days.
- 4.2 If a fixed penalty is not paid in full within 28 days, the amount of the fixed penalty increases by 100% with effect from the day after the last day of the fixed penalty payment period.

¹ RIPA (Regulation of Investigatory Powers Act) is a law enacted in the United Kingdom in 2000 to govern the interception and use of electronic communications

5.0 Challenges to the Penalty Notice

- 5.1 The littering regulations confers a right on the person who is given a penalty notice to challenge it within 28 days of the penalty notice being issued. A person to whom a penalty is given may make written representations to MDDC on grounds as set out in the littering regulations. These grounds are set out in Section 10 in this document.
- 5.2 If MDDC accepts that one or more of the grounds in regulation 14 of the Littering Regulation applies, it must cancel the penalty notice and inform the person who made the representations of the cancellation in writing.
- 5.3 If MDDC does not accept that one or more of the grounds in regulation 14 applies, it must give a notice of rejection to the person who made the representation.
- 5.4 A person who is given a notice of rejection may appeal against it to an adjudicator and the appeal must be made to an adjudicator within the period of 28 days beginning with the day on which the notice of rejection is given, although the adjudicator may allow an appeal out of time.
- 5.5 If the adjudicator concludes that one or more of the grounds in regulation 14 applies, the adjudicator must allow the appeal.²

6.0 Recovery of unpaid amounts

- 6.1 MDDC will recover any unpaid amount of the fixed penalty and any related costs awarded by an adjudicator:
- 6.1.1 as a civil debt, or
- 6.1.2 as if payable under a county court order, if the county court so orders.

7.0 Authorised Officer

- 7.1 MDDC authorises the District Officers to issue penalty notices.

8.0 Use of receipts by Mid Devon District Council

- 8.1 Any surplus³ income from these penalties will be ring-fenced to be spent on the Council's statutory functions of keeping relevant land clear of litter and refuse, and on enforcement against littering or graffiti.

² The adjudicator is the Traffic Penalty Tribunal

³ An amount of something left over when requirements have been met; an excess of production or supply

9.0 Exemptions

9.1 Public service vehicles and licensed taxis are exempt from FPN's, these are defined as:

- A public service vehicle within the meaning of section 1 of the Public Passenger Vehicles Act 1981
- A hackney carriage licensed under section 37 of the Town Police Clauses Act 1847 or section 6 of the Metropolitan Public Carriage Act 1869
- A vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976(e) (licensing of private hire vehicles).

10.0 Representation and Appeals - Grounds of representation

10.1 A person who receives a FPN may make written representations on one or more of the grounds A to L as set out below:

Ground A – the littering offence did not occur.

Ground B – the person was not the keeper of the vehicle at the time of the littering offence because they became the keeper of the vehicle after the littering offence occurred. Such representation must include the name and address of the person from whom the vehicle was acquired.

Ground C – the person was not the keeper of the vehicle at the time of the littering offence because the person had disposed of the vehicle to another person before the littering offence occurred. Such a representation must include the name and address of the person to whom the vehicle had been disposed of, or a statement that the name and address of that person is not known

Ground D – the person was not the keeper of the vehicle at the time of the littering offence because the vehicle was a stolen vehicle when the littering offence occurred. Such a representation must include the crime reference number, insurance claim number or other evidence of the vehicle's theft.

Ground E – the person was engaged in the hiring of vehicles in the course of a business at the time of the littering offence, and was not the keeper of the vehicle at that time by virtue of the hire agreement. Such representation must include a statement signed by or on behalf of the person to the effect that at the time of the littering offence the vehicle was hired to a named person under a vehicle hire agreement and provide a copy of the vehicle hire agreement.

Ground F – the person was not the keeper of the vehicle at the time of the littering offence for a reason not mentioned in Grounds B to E.

Ground G – Mid Devon District Council are not authorised to give the person a penalty notice.

Ground H – the person is not liable to pay the fixed penalty by virtue of Regulation 12 (public service vehicles and licensed taxis).

Ground I – the liability to pay the fixed penalty has been discharged in the circumstances set out in Regulation 13 (penalty already given to a person in respect of the same offence).

Ground J – the fixed penalty exceeds the amount payable under the Regulations.

Ground K – Mid Devon District Council has failed to observe any requirement imposed on it by the regulations in relation to the imposition or recovery of the fixed penalty.

Ground L – there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled (whether or not any of grounds A to K apply).

Appendix A - Littering from Vehicle timescales

One Working Day

Add littering offences to the current sheet in the littering folder.

For Littering Issues, if not already on Idox, log via MDDC website. Update Idox record.

If witnessed personally, take photographic evidence and complete a written report or e-mail.

If witnessed by a member of the public, take a witness signed statement from them including what was actually witnessed and not just circumstantial evidence (and obtain photos if available).

Within 7 Working days

A local authority may make an enquiry using the Driver & Vehicle Licensing Agency (DVLA's) Web Enabled Enquiry (WEE) system to request a vehicle keeper's details (at time of event) after witnessing or receiving reports regarding an alleged littering or fly-tipping offence from a stationary or moving vehicle.

The enquiry via the WEE system must be made within 7 days of the date of event (i.e. the date of the alleged incident).

Ensure there is sufficient evidence in existence, prior to accessing the WEE system, to ensure a successful prosecution and retain this evidence for subsequent audit inspections (on Idox for fly-tipping/littering issues).

The member of staff making the WEE system enquiry must see this evidence for themselves.

If CCTV footage showing waste being dumped from a vehicle is being relied upon, this must be unambiguous and seen by the member of staff making the WEE system enquiry.

If a vehicle registration number plate or any documentation is found in amongst fly-tipped waste, **no** enquiries can be made via the WEE system, as it is purely circumstantial.

Once vehicle keeper's details are received, send letter enclosing a Fixed Penalty Notice (FPN).

At 15 Days

If payment is not received after fourteen days, issue a reminder letter.

Compulsory Recycling and Household waste Policy

Date of issue: January 2020

Reviewed: December 2023

Review Date: December 2026

Contents

- 1.0 Introduction
- 2.0 Compulsory recycling, Section 46 Policy
- 3.0 Enforcement Procedure

Appendix 1 - Enforcement letter

1.0 Introduction

- 1.1 Mid Devon District Council (MDDC) has a Compulsory Recycling and Household waste Policy, in line with The Environmental Protection Act 1990 (S46), aimed at encouraging residents to put their waste out in the correct containers and at the correct times.
- 1.2 Current recycling procedures are specified on the MDDC website.
- 1.3 MDDC provides a weekly food waste kerbside collection using blue food caddies and an opt-in fortnightly chargeable garden waste collection service using a brown bin or sacks.
- 1.4 One of the purposes of introducing compulsory recycling is to increase recycling performance and to reduce costs for the Council. This has a positive effect by reducing the amount of waste.

2.0 Education and Enforcement

- 2.1 Everyone should take responsibility for the waste they produce and MDDC aims to educate local residents, businesses and visitors to increase awareness and understanding of their role in responsible waste management. This may be through targeted campaigns, the MDDC website, leaflets, posters, events and working with community groups.
- 2.2 MDDC has a statutory duty under the amended Environmental Protection Act 1990 (“the Act”) to keep the streets clean and clear of litter and refuse. This legislation also gives MDDC the powers to tackle local environmental quality issues and to undertake enforcement.
- 2.3 MDDC adopts an approach that will always offer advice, support and guidance in the first instance.
- 2.4 MDDC are aware that resorting to the use of formal powers may be necessary in some circumstances and is committed to seeing such measures are applied in an open, reasonable and proportionate way.
- 2.5 A Notice under Section 46 (1) of the Act needs to have been served on a property before any enforcement action can be pursued for this type of offence.
- 2.6 The Notice formally requires the occupier to place the waste for collection in receptacles of a kind and number specified and sets out rules for the way household waste should be managed by residents.
- 2.7 This Notice is in addition to the information provided on the MDDC website.
- 2.8 Serving a Section 46 (1) Notice does not imply that a household is not managing their waste properly and, as such, the notices may be served on as many properties as appropriate to enable a consistent and fair approach to enforcement across the District.

2.9 The following identifies the approach that may be taken in the more serious cases, for example, where the requirement to place the correct substance or article of waste into the correct kind of receptacle is continuously and persistently ignored and where this behaviour continues despite the informal actions such as engagement with the resident.

3.0 Enforcement Procedure

3.1 Stage One

3.1.1 Where a household has been identified to be failing in their requirements to present waste as prescribed, a warning notice under section 46A of the Act will be served. The warning notice will identify the requirement(s) with which the person has failed to comply. These notices are issued where:

(a) a person has failed without reasonable excuse to comply with a requirement under the section 46 Notice; and

(b) the person's failure to comply:

(i) has caused, or is or was likely to cause, a nuisance, or

(ii) has been, or is or was likely to be, detrimental to any amenities of the locality.

The warning remains in force for one year. The warning notice will comply with the requirements of 46A of the Act for warning notices.

3.2 Stage Two

3.2.1 A further failure to comply with the collection requirements, as defined in the Notice under Section 46 (1), could result in formal action being taken against the occupants if:

(a) The person has failed without reasonable excuse to comply with the requirement (s) identified in the Stage One warning and the person's failure to comply has had, or is or was likely to have, the effect described in 3.1.1 (b) (see above); or

(b) The person has failed without reasonable excuse to comply with a requirement that is similar to the one identified in the Stage One warning and the person's failure to comply has had, or is or was likely to have, the effect described in 3.1.1 (b) (see above).

3.2.2 A Notice of Intent should be served on the occupants of the property. It should be issued each time there is an infringement, provided the conditions set out above are met and the infringement occurred within a year of a written warning being given under stage one above.. The notice of intent informs the occupant

that the Council intends to require them to pay a Fixed Penalty Notice. The occupant has 28 days within which to make representations as to why they should not have to pay it. If representations are received and considered valid, the requirement for the Fixed Penalty Notice will be withdrawn. Otherwise, the case will continue to the next formal stage.

3.3 Stage Three

- 3.3.1 If no representations are received, or if they are received and they are not considered valid, the named occupants will be issued with a Final Notice requiring payment of a Fixed Penalty within 28 days. If the Fixed Penalty is paid, then no further action is taken in relation to the infringement. An early payment discount may be applied. The occupier has a further 28 days to appeal to a First Tier Tribunal against the issuing of the Fixed Penalty Notice.
- 3.3.2 The tribunal is external to MDDC and has the power to uphold or withdraw the requirement to pay the Fixed Penalty. MDDCs' delegated officers (i.e. District Officers) must therefore record their considerations when issuing notices and these should be sound to withstand scrutiny at the First Tier Tribunal. The Fixed Penalty Notice is now a civil penalty (rather than a criminal offence) that would be enforced through the civil courts. If the Fixed Penalty is upheld then MDDC will pursue unpaid Fixed Penalties in accordance with its procedures for debt recovery.
- 3.3.3 The Fixed Penalty rate is set at £80.00 and reduced to £50.00 if paid within 14 days of issue. The discount period is to encourage settlement at an amount that is sufficient to act as a deterrent to future offences.

Appendix 1 – Section 46 Letter



**Street Scene Services
Phoenix House
Phoenix Lane
Tiverton
EX16 6PP**

The Occupier

>
>
>

Your Ref:
Our Ref: 23/>WASTE

website: www.middevon.gov.uk
contact: Street Scene Services
telephone: 01884 255255
e-mail: streetscene@middevon.gov.uk

Date: > 2023

Dear Occupier

RECEPTACLES FOR HOUSEHOLD WASTE SECTION 46 OF ENVIRONMENTAL PROTECTION ACT 1990

Premises: >

Mid Devon District Council, as your waste collection authority, has a duty by virtue of Section 46 (1) (a) of the Environmental Protection Act 1990 to arrange for the collection of household waste from any premises.

Please find enclosed a Notice which sets out the requirements of the Council of when and how to put out your waste and recycling - this Notice is served on you under Section 46 (1) of the Environmental Protection Act 1990. You are obliged by law to comply with this Notice.

Please note that Mid Devon District Council may take enforcement action if these requirements are not followed.

If you require black or green recycling boxes and/or a blue food caddy, please order via the website (www.middevon.gov.uk/do-it-online/) under the heading 'Waste and Recycling' and the option 'Request a new waste container' or call the above telephone number. An opt-in chargeable service for garden waste is also available. *What about black or brown bins?*

If we can help you in any other way with recycling or you have any queries, please contact the Council via the above telephone number or e-mail address. Further information can also be found on our website as detailed above.

Yours faithfully

District Officer

Notice under Section 46 of the Environmental Protection Act 1990

Premises:

To: The Occupier

Mid Devon District Council (“the Council”), as a waste collection authority, has a duty by virtue of Section 45(1) of the Environmental Protection Act 1990 (“the Act”) to arrange for the collection of household waste from the Premises.

The Council, by virtue of Section 46 of the Act, requires you as the occupier of the Premises to place the waste for collection in accordance with the instructions as set out in the Schedule to this Notice.

Failure to comply with the instructions may render you liable to pay a monetary penalty.

Signed:

Authorised signatory

Date:

Please see calendar attached to this Notice which indicates the dates when your waste and recycling will be collected.

THE SCHEDULE

No bins or recyclable waste shall be presented for collection before 6.00pm on the evening before your appointed day of collection or after 6.00am on the morning of your collection. At all other times, the waste must be retained within the curtilage of your property. When presented for collection, it must be placed at an easily accessible position on the boundary at the front or rear of your property.

By law, Section 46 (1) of the Environmental Protection Act 1990 as amended by the Deregulation Act 2015, the Council requires that households:

(a) Must ONLY place the following items in the black recycling boxes supplied by the Council:

Paper, Glass, Tins/Cans/Household metals, Textiles, Batteries and Mixed Plastics.

(b) You must ONLY place the following items in the green recycling box supplied by the Council:

Cardboard, Drink Cartons and Food Cartons.

(c) You must ONLY place the following items in the blue food caddies:

Food Waste.

(d) You must ONLY place the following garden waste in the opt-in fortnightly chargeable brown-wheeled bin provided by the Council:

Grass Cuttings, Shrubs, Plants, Branches, Weeds, Leaves.

(e) All other items of household waste (i.e. anything not listed under a, b, c, or d) shall be placed within black sacks and placed in your allocated wheelie bin where it can be presented for collection. No waste shall be presented for collection outside a wheeled bin.

Fly Tipping Policy

Date of issue: October 2023

Review date: January 2030

Contents

- 1.0 Introduction and legislation
- 2.0 The procedure for fly tipping
- 3.0 Duty of care
- 4.0 Fixed penalties
- 5.0 Amount of fixed penalty

1.0 Introduction

- 1.1 Fly tipping is the illegal dumping of any waste onto land that has no licence to accept waste. It can vary in scale significantly from a bin bag of rubbish to a large quantity of waste dumped from a truck. Enforcement legislation is embodied within the Environmental Protection Act 1990 sections 33 and 34.
- 1.2 The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 came into force on 9 May 2016 which amends the Environmental Protection Act 1990 to allow the issuing of fixed penalties for waste deposit offences.
- 1.3 Mid Devon District Council (The Council) is a contributor to the web based National Fly Tipping Database Fly Capture.
- 1.4 All authorised District Officers in the Street Scene and Open Spaces service are fully trained in enforcement procedures and receive regular update training. All delegated officers will act in accordance with this policy and refer to this policy when making enforcement decisions.

2.0 The Procedure

- 2.1 In the first instance, The Council's preferred action is to secure compliance through education and information. Enforcement action will require delegated officers to follow set procedures and protocols in order to ensure consistency in the collection of evidence and the enforcement actions applied. These actions represent a zero tolerance to environmental crime.

This policy supplements the guidance continued in the Operations Directorate Enforcement Policy. The Street Scene service encompasses numerous powers and duties that enable the control of behaviour of individuals and/or businesses in the interest of public health and the environment.

- 2.2 The Council may use CCTV to issue and pursue fixed penalty notices for fly tipping to ensure compliance with Regulation of Investigatory Powers Act 2000.
- 2.3 A fixed penalty notice may be issued to someone caught in the act or subsequently determined guilty of the offence of fly tipping. Where evidence is obtained for a more serious case of fly tipping, and the case meets the threshold for prosecution, a file will be prepared for prosecution.
- 2.4 In cases of fly tipping found on public open spaces or on highways. A letter shall be sent to the alleged offender with an explanation of the offence committed and an invitation for them to attend an interview under caution following. The purpose of the investigation is to ascertain why the offence was committed and to see if there is a plausible explanation for the committed offence. If the interviewers are not satisfied, consideration may be given to either issuing a Fixed Penalty Notice or prosecuting.
- 2.5 Evidence held by the District Council shall be held in prosecution files which will be stored electronically in line with Data Protection Act 2018.

- 2.6 Interviews under caution will be carried out under the Police and Criminal Evidence Act 1984 (PACE).
- 2.6.1 The Council may seize a vehicle, trailer or mobile plant suspected of being involved in waste¹ crime.
- 2.6.2 Mid Devon District Council has the right to legally enter land, vehicles or premises to investigate fly tipping offences.
- 2.7 Mid Devon District Council can serve a notice on anyone it thinks can provide information on the details of the driver of a vehicle used at the time when the offence was committed, using the DVLA WEEE system.
- 2.8 All offences that involve a vehicle may be investigated within 7 days of the offence taking place. The Council has the ability to check owner details of a vehicle within this time. After 7 days, a registered keeper check cannot take place using the WEE system.
- 2.11 A range of enforcement options are available for each offence. The case officer dealing with a situation will liaise with the Environment and Enforcement manager to determine the appropriate outcome. Any cases recommended for prosecution will be presented to Legal Services for comment and review prior to proceedings being instigated.

3.0 Duty of care

- 3.1 The fixed penalty notice (FPN) for breaches of the household waste duty of care provides an alternative to prosecution. It allows an individual to discharge liability for the duty of care offence by payment of a financial penalty.
- 3.2 The duty of care requires occupiers of domestic property to take all reasonable measures available to them in the circumstances to ensure that they only transfer household waste produced on that property to an authorised person for disposal. This reduces the chance of waste ending up in the hands of those who would fly-tip it.
- 3.3 The Council may issue a FPN when an individual appears to have failed to comply with their duty of care under section 34(2A) of the Environmental Protection Act 1990 in England. For example:
- Where fly-tipped waste can be traced back to an individual who is found to have failed to take reasonable steps to ensure that they transferred the waste to an authorised person.
 - Where an unauthorised carrier is found to be carrying household waste that was directly transferred to them by the occupier of a domestic property.

- Where an individual is found to have transferred their household waste to an unauthorised person at a site that does not have a permit or exemption.

4.0 The Fixed Penalty Policy

- 4.1 A Fixed Penalty Notice (FPN), in the appropriate case, can be issued on the spot or following a PACE interview.
- 4.2 The Council can request within reasonable timescale, ordinarily 28 days, under section 59 of the Environmental Protection Act 1990, for the occupier and/or landowner to remove the waste they knowingly caused or permitted to be deposited illegally.
- 4.3 If the occupier and or landowner does not remove the waste Mid Devon District Council can enter on to the land, clean the waste and administer a charge for the costs of doing so and issue a FPN.
- 4.4 The Council can also enter land to clear the waste if:
- There is no occupier
 - The occupier did not knowingly cause or permit the deposit of the waste
 - It is in order to prevent pollution.
- 4.5 A District Officer may require an occupier of domestic property to give the occupier's name and address if the officer proposes to give the occupier a fixed penalty notice.
- 4.6 A person commits an offence if the person:
- Fails to give a name or address when required to do, or
 - Gives a false or inaccurate name or address in response
- 4.7 The Council will ensure all enforcement complies with the principles of the Regulators Code² when approaching enforcement for the household waste duty of care.
- 4.8 The Council will request payment is made within 14 days of the FPN issue date.
- 4.9 Reminder letters will be sent to those where payment has not been made within 14 days of the FPN being issued. The letter must detail the full payment cost, when payment must be made by and what happens if payment is not made.
- 4.10 District Officers must be authorised in writing by the authority to:
- Issue FPNs
 - Investigate crimes

- Seizing vehicles and enter on to private land for the purposes of investigation
- 4.11 Where a FPN has been issued, the Council will wait a further 14 days after the reminder letter was sent before legal action is taken. If the FPN is paid no court proceedings may take place.
- 4.12 Some cases may not be appropriate for a fixed penalty notice and may proceed directly to prosecution.
- 4.13 Convicted parties can be fined an unlimited amount or imprisoned for up to 5 years.

5.0 Amount of fixed penalty

- 5.1 The Council has specified that FPN's relating to fly tipping will work on a sliding scale. The minimum charge for a fly tipping offence being £400 and the maximum amount £1000. Delegated authority to the Environment and Enforcement Manager to determine the fine amount based on case.
- 5.2 The Council will attempt to recover the costs spent on investigations, clean up and enforcement work from the:
- Offender
 - Occupier or landowner



Abandoned Vehicle Policy

Date of Issue: January 2020

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Annex A: Operational Policy – Schedule of steps

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Annex C - Removal and Disposal of Vehicles Regulations 1986/183

1.0 Introduction

- 1.1 This Policy sets out the process that the Council undertakes to identify and remove abandoned vehicles from land in the Mid Devon District.
- 1.2 Local Authorities have a statutory duty to remove abandoned vehicles from the public highway and any other land in the open air, such as car parks or private property.
- 1.3 The term 'vehicle' in the context of abandoned vehicles includes any mechanically propelled vehicle intended or adapted for use on a road. Also included in the definition are trailers, caravans and anything that has formed part of a motor vehicle.

2.0 Relevant legislation

- 2.1 It is an offence under section 2 of the Refuse Disposal Amenity Act 1978 to abandon on any land in the open air, or on any other land forming part of a highway, a motor vehicle or anything, which formed part of a motor vehicle. The Act places a duty on a Local Authority to remove any vehicle that has been abandoned. This duty does not apply where a vehicle is abandoned on private land and the Council considers the cost of removal is unreasonably high e.g., specialist equipment is required to remove the vehicle from a ravine or inaccessible land. The Act makes provision for a Local Authority to recover the costs of removing a vehicle from the landowner or the owner of the vehicle.
- 2.2 Sections 99-103 of the Road Traffic Regulation Act 1984 under which the Removal and Disposal of Vehicles Regulations 1986 were made, make provisions for a local authority to dispose of vehicles that have been abandoned.
- 2.3 The Clean Neighbourhoods and Environment Act 2005 provides for Fixed Penalty Notices to be issued to any person found to have abandoned a vehicle.

3.0 Process

- 3.1 Mid Devon District Council will inspect each vehicle that has been reported as abandoned to confirm that it should be considered as abandoned.
- 3.2 Having considered guidance published by the Department for Environment, Food and Rural Affairs (DEFRA) the environment and enforcement team will consider one or more of the following criteria when making a decision on whether a vehicle has been abandoned:
 - It is untaxed when the details are checked using the DVLA vehicle enquiry service <https://vehicleenquiry.service.gov.uk>
 - There is no current registered keeper on the DVLA record
 - It has been stationary for a minimum of three weeks, or it is significantly damaged or appears unroadworthy

- It is burnt out
- The vehicle is missing one or more number plates
- The vehicle contains waste materials

4.0 Abandoned Vehicle Procedure Initial Action

- 4.1 On receipt of a report of an apparently abandoned vehicle, the vehicle details will be checked against the DVLA vehicle enquiry service to establish whether the vehicle is taxed. If at this point, the vehicle is shown as taxed, it will not be deemed abandoned unless it meets other criteria around vehicle condition.
- 4.2 If the reported vehicle is found to be untaxed or in poor condition and potentially a danger to the public, an inspection will be carried out. The vehicle will be inspected to confirm if the details of the vehicle are correct in order to enable a DVLA check to be carried out to identify any registered keeper.
- 4.3 The inspection will also identify evidence to support a claim of abandonment, including for example:
- Condition and appearance
 - Is it properly parked
 - Is it locked
 - Are there any weeds, litter or other detritus collecting around the wheels
 - Does the vehicle contain items of waste
 - Is there evidence the vehicle has been in situ for three weeks or longer
- 4.4 Enquiries may be made in the locality to establish how long the vehicle has been at the location and whether anyone has witnessed it being moved or knows who is responsible for abandoning it.
- 4.5 Where a vehicle is located on a road or highway the Council as part of the process to establish if a vehicle is abandoned may apply an informal notice ("Removal Notice") to the vehicle, giving an opportunity for the vehicle to be removed or claimed by the registered keeper prior to the Authority taking custody of the vehicle. If a vehicle is deemed to be hazardous the Council may elect to remove it immediately if it is considered abandoned without applying the Removal Notice to the vehicle. The registered keeper details will be obtained via the DVLA WEE link and the keeper notified in writing that the vehicle has been removed
- 4.6 Where an abandoned vehicle is located on occupied private land the Council must give the occupier 15 days' notice that it intends to remove the abandoned vehicle. If the occupier objects within the 15 days then the Council cannot remove the vehicle. At the same time as giving the occupier However, as soon as the occupier gives the Council permission to remove the vehicle it can be removed immediately without waiting for 15 days to lapse.

5.0 Vehicles not considered abandoned

- 5.1 If after examination of the vehicle it is considered that it does not satisfy the criteria of abandoned, no further action will be taken.

6.0 Removal of Vehicles

- 6.1 The Removal Notice will be placed on the vehicle for the notice period applicable to its location:
- 6.2 If a vehicle appears to be in such a condition that it ought to be destroyed, a 24hr notice will be affixed.
- 6.3 If the vehicle is located on public highway, the notice period is 7 days.
- 6.4 The notice informs interested parties that, if the vehicle is not removed or claimed within the time stated, it can be removed and disposed of with costs claimed from the owner.
- 6.5 The Notice will include details of the vehicle, date and time of issue and the address and telephone number through which any claimant of the vehicle may make contact.
- 6.6 A warning letter will also be sent to the Registered Keeper giving notification of the intended removal. Notice periods as set out above, are applied from the date that the letter can reasonably be expected to have been received by the Registered Keeper. (For example, a 24 hours' notice period will have deemed to have started no sooner than 2 days after the letter was posted). Proof of service of the warning letter and removal notice will be kept.

7.0 Claims

- 7.1 Where a vehicle is claimed by the owner prior to removal, steps will be taken to verify their claim of ownership and if all is in order no further action will be taken in relation to abandoned vehicle legislation.
- 7.2 Failure to produce the relevant proof of ownership may lead to the vehicle being removed as abandoned.
- 7.3 Advice will be provided to the owner / keeper of the vehicle (if appropriate) around the condition and storage of the vehicle.
- 7.4 A report will be made to the DVLA if the vehicle is claimed but shown as not having a registered keeper or if it is untaxed.
- 7.5 If a vehicle on private property is claimed, the claimant's details will be provided to the landowner, if appropriate. .

7.6 Vehicles involved in road traffic accidents are not necessarily abandoned, however an inspection will be carried out and a warning letter sent to the registered keeper and, if the details are known, the Insurance Company.

7.7 If an abandoned vehicle is in such condition that it is a danger to the public then it will be removed immediately without a Removal Notice being applied to the vehicle.

8.0 Vehicles not meeting the criteria

8.1 Details of untaxed vehicles parked on the highway that do not exhibit any other criteria for abandonment will be passed to the Driver and Vehicle Licensing Agency (DVLA) for their information and action.

8.2 Vehicles that are not abandoned, nuisance vehicles or vehicle's which are illegally or badly parked, causing obstruction, broken down or subject of residential parking disputes cannot be removed by the Authority. Where appropriate, complainants will be advised to contact the local parking authority or the Police who have powers that may be used in some situations.

9.0 Vehicles requiring removal

9.1 A revisit will take place at the expiry of the relevant notice period. If the vehicle remains in the location and is still deemed to be abandoned, final checks will be undertaken to determine whether the vehicle is stolen or of interest to other parties. Where the vehicle is not of interest to any others, instruction will be given to the Council's contractor to arrange removal.

9.2 If the vehicle has a value that appears to be less than £1,000 or in poor condition the contractor is issued with a destruction notice instructing removal within 24 hours for disposal at an approved and licensed waste disposal facility.

9.3 Where a vehicle is in good condition with a value, which appears to be in excess of £1,000, the contractor will be notified that the vehicle is to be removed and placed into secure storage. Further enquiries then will be made in an effort to trace an owner under the regulations as set out in Annex C, however if a keeper cannot be traced, the vehicle will be destroyed. If Owner can be traced then the Council must give the owner of the vehicle a statutory seven days' written notice that it intends to dispose of the vehicle if it is not collected within this time. If the notice was given by post the seven days' notice period will be deemed to have started no sooner than 2 days after the letter was posted. Proof of service of this notice will be kept

9.4 Valuation of the vehicle will be carried out by officers who are trained to undertake such valuations.

10.0 Vehicles claimed after removal

- 10.1 Where the keeper of a vehicle makes a claim once a vehicle has been removed, if the vehicle has not been destroyed, the claimant must provide documentary evidence to substantiate the claim of ownership.
- 10.2 Destruction of the vehicle will be delayed for a reasonable period to allow for proof of ownership to be produced and the vehicle will be removed to storage..
- 10.3 A fixed penalty notice (£200) may be issued to the claimant under the provisions provided for by the Clean Neighbourhoods and Environment Act 2005 in respect of the offence of abandonment of a vehicle.
- 10.4 Upon payment of the prescribed amounts (see Annex B) in respect of removal and storage fees the arrangements will be made for the return of the vehicle.
- 10.5 If before the expiration of the period of one year beginning with the date on which a vehicle is sold by a Council any person satisfies the authority that at the time of its sale he was the owner of the vehicle, the Council shall pay over to him any sum by which the proceeds of sale exceed the aggregate of such sums in respect of the removal, storage and disposal of the vehicle.

11.0 Caravans and Trailers

- 11.1 Abandoned caravans and trailers are included within the definition of 'vehicle' in the Refuse Disposal (Amenity) Act 1978 and the above removal procedures can be used to deal with and remove alleged abandoned trailers and caravans.
- 11.2 It should be noted that tracing owners or keepers of these vehicles could be difficult therefore; in certain circumstances, the usual notice period may be extended.

12.0 Financial Implications

- 12.1 The cost to Mid Devon District Council of dealing with abandoned vehicles is currently offset by the nominal scrap value of the vehicle. The contractor used by Mid Devon waives their fee for works undertaken removing vehicles as they retain the scrap value. Any changes to this arrangement would require a review of this policy as Mid Devon District Council does not budget to meet this statutory function.
- 12.2 The exception to this is trailers and caravans, which have no scrap value. There is a cost for collection and disposal of these, currently £200.

13.0 Data Security and additional information

- 13.1 Abandoned vehicle reports are logged on the Driver Vehicle Licensing Authority (DVLA) Waste and Electronic Equipment electronic database. After 2 years, worksheets will be deleted in line with the DVLA data retention guidelines.
- 13.2 DVLA check printouts are stored in a locked cabinet and destroyed after a period as specified by the DVLA. In addition, all enquiries are recorded in a separate log to act as an audit trail, and are kept in a locked cabinet.
- 13.3 If an enquiry is made by the Council on an incorrect Vehicle Registration Mark, details of the enquiry must be deleted from all internal systems but an audit trail must be kept for 2 years; this is recorded in the log.
- 13.4 Before performing a DVLA check, the Council's authorised officer must have read the guidance issued by the DVLA and understand the evidence that must be in place before making a request.
- 13.5 A SORN is a Statutory Off-Road Notification, which must be declared, to the DVLA when a vehicle is not going to be used for a period of time. The vehicle must be kept away from the highway and on private land, which the registered keeper owns or has permission from the owner to use for storage. For example, a driveway to a house, in a garage or on an allocated parking space.

Annex A - Operational Policy – Schedule of steps

Abandoned vehicle procedure

1. Vehicle reported as abandoned by customer
2. IDOX record created validations checks carried out.
3. Check Tax status on vehicle using <https://www.gov.uk/check-vehicle-tax>
4. Allocated District Officer attends site
 - 4.1 District Officer must take photos of the vehicle
 - 4.2 Documents the vehicle is abandoned
 - 4.3 Check tax status again
 - 4.4 Record the time, date, location, make, model and registration number.
5. District Officer sends photos and details of exact location of the abandoned vehicle back to admin staff. Admin staff check that the details reported by the customer and the District Officer match.
6. Authorised admin staff make DVLA enquiry Ensure the DVLA guidance is read before making any enquiry.
 - 6.1 The make and model details of the vehicle match the ones on the abandoned vehicle.
 - 6.2 The date of event entered is the date in which the District Officer attends site and carries out checks to the vehicle.
 - 6.3 The enquiry must be made within 7 days of the date the vehicle was first sighted by the District Officer, not the date reported by the customer.
 - 6.4 The correct registration number is entered before submitting the request.
 - 6.5 The Vehicle registration number is submitted in the correct field.
7. If a registered keeper is identified refer the case back to the District Officer and request the 7 day notice to be applied. Request they take photos of the notice attached to the vehicle.
8. If no registered keeper is identified refer the case back to the District Officer and request the 24 hour notice to be applied. Request they take photos of the notice attached to the vehicle.
9. Once the notice has been attached to the vehicle and the photos have been taken, send the 7 day notice letter to the registered keeper; get another member of the team to check the letter and ensure the dates correspond and car details are correct before sending to the keeper.

10. If no registered keeper is identified after 24 hours, the District Officer attends the location again to ensure the vehicle is still on site, if so a request is made to the scrap metal hauliers to request removal. The location, make, model and registration details must be given.
11. After the 7th day if no response from the registered keeper the District Officer attends the location again to ensure the vehicle is still on site, once the second site visit has been carried out a second DVLA enquiry must be made to ensure the details of the registered keeper are the same as the enquiry previously made. If these are the same, a request is made to the scrap metal hauliers to request removal. The location, make, model and registration details must be given.
12. If the registered keeper contacts Mid Devon District Council and advises the vehicle is not abandoned, the case is closed. NO further DVLA checks are carried out. Report untaxed vehicle to the DVLA, advise the customer the vehicle needs to be taxed or SORN on private land.
13. Update the IDOX case ensuring all details are recorded. Ensure letters are saved including the certificate of destruction, which is provided by the scrap metal hauliers.
14. Close the IDOX case and refer to legal services for cost recovery.

Annex B - Prescribed sums and charges for removal

Table 1

1	2	3	4	5
1 Vehicle position and condition	Vehicle equal to or less than 3.5 tonnes MAM	Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM	Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 tonnes MAM	Vehicle exceeding 18 tonnes MAM
2 Vehicle on road, upright, and not substantially damaged, or any two wheeled vehicle whatever its condition or position on or off road	£192	£256	£448	£448
3 Vehicle, excluding a two wheeled vehicle, on road but either not upright or substantially damaged or both	£320	£832	Unladen - £2561	Unladen - £3842
			Laden - £3842	Laden - £5763
4 Vehicle, excluding a two wheeled vehicle, off road, upright and not substantially damaged	£256	£512	Unladen - £1281	Unladen - £1921
			Laden - £1921	Laden - £2561
5 Vehicle, excluding a two wheeled vehicle, off road but either not upright or substantially damaged or both	£384	£1089	Unladen - £3842	Unladen - £5763
			Laden - £5763	Laden - £7684

Charges in relation to the storage of vehicles

For each period of 24 hours or a part thereof during which the vehicle is in the custody of the Council

Table 2

1	2	3	4	5
1 Two wheeled vehicle	Vehicle, not including two wheeled vehicle, equal to or less than 3.5 tonnes MAM	Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes MAM	Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 tonnes MAM	Vehicle exceeding 18 tonnes MAM
2 £13	£26	£32	£38	£45

Annex C - Removal and Disposal of Vehicles Regulations 1986/183

11. Interpretation of Part III

In this Part of these Regulations, unless the contrary intention appears, the following expressions have the meaning hereby assigned to them respectively, that is to say—

“description of the place of abandonment” , in relation to a vehicle, means a description of the place at which that vehicle appears or appeared to be abandoned which will be sufficient to enable that place to be identified after the vehicle has been removed therefrom;

“H.P. Information Ltd.” means Hire Purchase Information Limited, being a company incorporated under the Companies Act 1948;

“owner”, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, includes the person entitled to possession of the vehicle under the agreement;

“G.B. registration mark” means a registration mark issued in relation to a vehicle under the Vehicles (Excise) Act 1971;

“specified information” , in relation to a vehicle, means such of the following information as can be or could have been ascertained from an inspection of the vehicle, or has been ascertained from any other source, that is to say—

(a) in the case of a vehicle which carried a G.B. registration mark, or a mark indicating registration in a country outside Great Britain, particulars of such mark; and

(b) the make of the vehicle.

“GB. registration mark” means a registration mark issued in relation to a vehicle under the Vehicles (Excise) Act 1971;

“Specified information” , in relation to a vehicle, means the registration mark and the make of the vehicle as well information whether it is a GB registration or another’s country’s registration

12. Steps to be taken to find the owners of certain vehicles

(1) For the purposes of section 4(1)(c) of the 1978 Act and section 101(3)(c) of the 1984 Act, the steps to be taken by an authority to find a person appearing to them to be the owner of the vehicle in a case to which either of those paragraphs applies shall be such of the following steps as are applicable to the vehicle:—

(a) if the vehicle carried a G.B. registration mark—

(i) the authority shall ascertain from the records maintained by the Secretary of State in connection with any functions exercisable by him by virtue of the Vehicles (Excise) Act 1971 the name and address of the person by whom the vehicle is kept and used;

(ii) the authority shall, where they have found the name and address of a person who may be the owner of the vehicle from the records maintained by the Secretary of State as aforesaid, send a notice to that person in the manner prescribed by the next following regulation giving the specified information, stating whether the vehicle has been removed from the place at which it appeared to have been abandoned, and if so to what place, stating that if he is the owner of the vehicle they require him to remove the vehicle from their custody on or before a specified date, being the date when the relevant period prescribed by regulation 14 of these Regulations will expire, and stating that unless it is removed by him on or before that date they intend to dispose of it; and

(iii) the authority shall give the specified information and a description of the place of abandonment to the chief officer of the police force in whose area is the place at which the vehicle appeared to have been abandoned (unless the authority is that officer) and the specified information to H.P. Information Ltd., and shall enquire of each person to whom the information is given whether that person can make any enquiries to find the owner of the vehicle;

(b) if the vehicle does not carry a G.B. registration mark but carries a mark indicating registration in Northern Ireland the authority shall give the specified information and a description of the place of abandonment to the chief officer of the police force in whose area is the place at which the vehicle appeared to have been abandoned (unless the authority is that officer) and to the Secretary of State for Transport and the specified information to H.P. Information Ltd., and shall enquire of each person to whom the information is given whether that person can make any enquiries to find the owner of the vehicle;

(c) if the vehicle does not carry a G.B. registration mark but carries a mark indicating registration in the Republic of Ireland, the authority shall give the specified information and a description of the place of abandonment to the Secretary of State for Transport, and to the chief officer of the police force in whose area is the place at which the vehicle appeared to have been abandoned (unless the authority is that officer), and shall enquire of each person to whom the information is given whether that person can make any enquiries to find the owner of the vehicle;

(d) if the vehicle does not carry a G.B. registration mark but carries a mark indicating registration in the Channel Islands, the Isle of Man, or any country not mentioned in the foregoing sub-paragraphs of this paragraph, the authority shall give the specified information and a description of the place of abandonment to the chief officer of the police force in whose area is the place at which the vehicle appeared to have been

abandoned (unless the authority is that officer), and the specified information to H.P. Information Ltd., and shall enquire of each person to whom the information is given whether that person can make any enquiries to find the owner of the vehicle;

(e) if the vehicle does not carry a G.B. registration mark or any other registration mark, then—

(i) if the authority is the chief officer of the police force in whose area is the place at which the vehicle appeared to have been abandoned, that officer shall apply to the local authority in whose area is that place, giving the specified information and enquiring whether that authority has any information as to who is the owner of the vehicle; or

(ii) if the authority is the local authority in whose area is the place at which the vehicle appeared to have been abandoned, the authority shall apply to the chief officer of the police force in whose area is that place, giving the specified information and enquiring whether that officer has any information as to who is the owner of the vehicle.

For the purposes of this sub-paragraph “local authority” means —

(aa) in relation to England, the council of a county, a metropolitan district or a London borough, or the Common Council of the City of London or an authority established under section 10 of the Local Government Act 1985;

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Littering Fixed Penalty Notice Policy

Date of issue: February 2023
Reviewed: December 2023
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- 2.0 Background
- 3.0 Legislation
- 4.0 Process
- 5.0 Circumstance for non-issuance
- 6.0 Persistent evaders
- 7.0 FPN Cost
- 8.0 Non-payment

1.0 Policy Objectives

- 1.1 Taking proportionate and effective enforcement action against littering and related offences is a practical step that enforcing authorities can take to help them in delivering their statutory duties to keep relevant land clear of litter and refuse. As well as influencing the behaviour of those against whom enforcement action is taken, the use of proportionate enforcement can also help to deter others from committing offences, which cause damage to local environmental quality. In turn, this will assist all duty bodies in keeping their relevant land and highways clear of litter and refuse.
- 1.2 The principles of the Regulators Code apply to enforcement action carried out by local authorities. An effective environmental offences enforcement regime is one that is proportionate, consistent, targeted, transparent and accountable. Section 21 of the Legislative and Regulatory Reform Act 2006 states: 21(1) Any person exercising a regulatory function to which this section applies must have regard to the principles in subsection (2) in the exercise of the function. 21 (2) Those principles are that— (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent; (b) regulatory activities should be targeted only at cases in which action is needed.
- 1.3 Enforcing authorities are expected to combine enforcement with education in order to change behaviour. Given the quasi-judicial nature of the enforcement process, enforcing authorities will need to balance the need for consistency with an approach, which remains targeted and proportionate. A blanket 'zero-tolerance' approach when issuing penalties is unlikely to achieve this.
- 1.4 Enforcing authorities should communicate to the community their reasons for their use of enforcement, and make it clear that enforcement is about supporting the achievement of a clean and attractive local environment: in no circumstances should enforcement be considered a means to raise revenue. Any perception that enforcement activity is being used intentionally to generate income is likely to undermine the legitimacy of the enforcement regime in the eyes of the local community, which in turn may diminish the deterrent effect.

2.0 Background

- 2.1 There is no comprehensive statutory definition of litter, but the courts have taken a wide approach to the term. Section 98 of the Environmental Protection Act 1990 (the "EPA 1990") provides that litter includes cigarette ends and chewing gum, but does not indicate the full breadth of the term. A government code of practice for litter explains that litter is normally thought to include:
 - 2.1.1 "materials, often associated with smoking, eating and drinking, that are improperly discarded and left by members of the public; or are spilt during business operations as well as waste management operations."

2.1.2 Section 87 of the EPA1990 provides that the offence of littering occurs when a person throws down, drops or otherwise deposits any litter on land (or water) that is:

- under the control of the litter authority;
- publicly accessible (with or without payment); and
- open to the air. (An area is open to the air if it is open on one side, even if the area is covered.)
- and leaves it there. No offence is committed if the owner or occupier of the place where the litter is deposited gives consent.

3.0 Legislation

3.1 Environmental Protection Act 1990 Section 87+88

3.2 Environmental Offences (Fixed Penalties)(England) Regulations 2017

4.0 Process

4.1 Where on any occasion an authorised officer of a litter authority, in this case Mid Devon District Council, finds a person who they have reason to believe has on that occasion committed an offence under section 87 EPA 1990, in the area of that authority, they may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.

4.2 A District officer will approach an individual identified as committing an offence under section 87. The officer will engage with the individual and explain the offence they have witnessed. For the purpose of education, the officer will normally give the offender the opportunity to place the dropped litter into a bin or, if there is no bin located nearby, to pick up the litter and take it away. Where an offender refuses to pick up litter or in the officer's opinion the offence is such that it warrants a Fixed Penalty Notice without giving the opportunity of picking up the litter to avoid a Fixed Penalty, the officer will explain that the officer intends to issue a Fixed Penalty Notice to the offender. The officer will request the name and address of the individual in order to process any fixed penalty notice.

4.3 A person commits an offence if :—
(a) he fails to give his name and address when required to do so
(b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
This offence is prosecuted as a summary conviction at standard scale 3.

4.4 A fixed penalty notice is an opportunity for the offender to discharge criminal responsibility of the offence by way of payment of the fine. The offender has a period of 14 days from the date on the FPN to make payment before prosecution proceedings will be commenced.

4.5 Where a FPN is issued via the post the date in which 14 days commences is the date at which it would be reasonable for that letter to be delivered, usually 2 days after posting.

4.6 A FPN will include :

- particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence
- the period during which, proceedings will not be taken for the offence
- the amount of the fixed penalty and
- the person to whom and the address at which the fixed penalty may be paid, in this matter that would be Mid Devon District Council.

5.0 Circumstances for non-issuance

5.1 Fixed penalty notices should not be issued if any of the following apply: There is no criminal liability – for example if the offender is a child under the age of 10 (the child’s parents or legal guardian should be informed instead). Enforcement action is inappropriate or would be disproportionate for the offence – for example, if the offender is vulnerable or it would not be in the public interest to prosecute. If a littering offence is accidental - for example if something falls from someone’s pocket. In order to maintain public trust in the legitimacy of enforcement action against littering, enforcement action should only be taken where there is evidence of an intent to drop and leave litter. It is not in the public interest to take enforcement action if there is not clear evidence that the individual intended to cause litter.

6.0 Persistent Evaders

6.1 Some people commit environmental offences deliberately and often, and may also fail to pay the fixed penalties issued against them. A person can be classed as a ‘persistent offender’ if there are two or more recorded offences by the individual. In such circumstances, a further fixed penalty is unlikely to be appropriate and the Council should consider prosecuting (if it is in the public interest to do so).

7.0 FPN Cost

7.1 As per the Environmental Offences (Fixed Penalties) (England) Regulations 2017 the amount payable is £150. This will be reduced to £75 if paid within a period not exceeding 7 days from the date of the FPN.

7.2 In line with Defra Guidance, the cost of an FPN should be proportionate to the offence, which is committed. Owing to this advice, a 50% reduction in the cost is offered if the Fixed Penalty Notice is paid within 14 days of the issuance date.

8.0 Non Payment

- 8.1 In circumstances of non-payment after a period of 38 days from issuance, the case will be passed over to MDDC legal team who will pursue with prosecution proceedings. In all cases of non-payment without reasonable excuse, prosecution proceedings will be pursued against the individual.

Briefing Paper: Environment Policy Development Group

Date of Meeting: 23 January 2024

Subject: Green Standards in Planning

Contributions by Officers: Jason Ball, Climate and Sustainability Specialist.
Arron Beecham, Principal Housing Enabling and Forward Planning Officer.

What are we doing as a Local Planning Authority?

[Plan Mid Devon](#), the district's Local Plan review, is in progress. Its timeline is set out in our [Local Development Scheme](#). Topics in the preliminary consultation included:

- [2.0 Sustainable Development and Six Top Priorities \(middevon.gov.uk\)](#)
- [8.0 Infrastructure and How We Travel \(middevon.gov.uk\)](#)
- [9.0 Our Natural and Historic Built Environment \(middevon.gov.uk\)](#)
- [16.0 A Sustainable Distribution of Development Across Mid Devon](#)

Tackling climate change is a material consideration in the planning process. The Council's interim Climate Emergency Planning Policy Statement adopted in March 2023 was published with a planning applications checklist, free guidance on achieving net zero carbon homes, and an interactive tool for comparing costs and benefits of different 'low carbon' standards for new homes. The statement acts as a stepping stone towards the next Local Plan.

- [Non-Statutory Interim Planning Policy Statement: Climate Emergency](#)
- [Climate Emergency – Planning Applications Checklist](#)
- [Net Zero Carbon Toolkit](#)
- [Net Zero Housing Assessment Tool](#)
- [Net Zero Housing Assessment Tool Example](#)

Energy efficiency standards

The Minister of State for Housing issued a [Written Ministerial Statement \(WMS\) on 13 December 2023](#) which provided an update on local energy efficiency standards (superseding the section of the 25 March 2015 WMS in respect of energy efficiency requirements and standards).

The WMS states that the 'introduction of the 2021 Part L uplift to Building Regulations set national minimum energy efficiency standards that are higher than those referenced in the 2015 WMS rendering it effectively moot. A further change to energy efficiency building regulations is planned for 2025 meaning that homes built

to that standard will be net zero ready and should need no significant work to ensure that they have zero carbon emissions as the grid continues to decarbonise.'

In favour of establishing consistent, nationally applied standards, the WMS explicitly **advises local authorities against introducing additional local energy efficiency standards** that go beyond current or planned building regulations. It stipulates that these should be 'rejected at examination if they do not have a well-reasoned and robustly costed rationale'. To ensure requirements are capable of being found sound at examination, local plans will need to ensure that development remains viable, and that the additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).

The Council has been progressing evidence in respect of establishing additional energy efficiency requirements, although at the current stage of plan-making, this has not yet translated into draft policy requirements. Officers suggest that current efforts should continue and Plan Mid Devon seeks to establish the highest standards of energy efficiency possible, providing that development remains viable. This will be robustly evidenced through a plan-wide viability assessment.

Whilst it is recognised that any approach taken forward within Plan Mid Devon may ultimately be superseded (either in part or in whole) by changing national policy, continuing efforts to establish ambitious local standards will provide appropriate safeguards in the event that national planning policy changes or implementation is delayed. It also enables the Council to address [industry concerns](#) that the Future Homes and Building Standards are insufficient to reach net zero.

Embodied Carbon - Reducing the Climate Impact of Construction

UK building regulations do not cover the climate impacts of construction materials or methods. The UK Green Building Council (UKGBC) notes:

"Embodied carbon from construction currently accounts for around 6% of the UK's annual emissions but it can represent over half of the whole life carbon impacts for an energy efficient new building."

Government has pledged to support the use of modern methods of construction (MMC) to deliver quality homes more quickly and more sustainably through [Home England's 2023-2028 strategic plan](#). The HE plan does not set a delivery target but says "MMC can drive greater efficiency and productivity, reduce carbon emissions, decrease disruption caused by construction, and increase consumer choice".

Defra has pledged to work with industry and academia to identify England's opportunities and barriers for timber and to promote best practice - by 2025 for construction, and by 2027 for retrofit. Defra's new '[roadmap](#)' report says: "We have therefore also committed in the [Net Zero Strategy](#), the [England Trees Action Plan](#) and the 2023 [Environmental Improvement Plan](#) to increase the safe use

of timber in construction (TiC) in England, to help reduce embodied carbon in the built environment and drive investment into tree planting, forest management and domestic supply chains, creating new green jobs and industries.”

The Plan Mid Devon Issues consultation included a consultation question in respect of embodied carbon. It sought to gather evidence on the principle of introducing policy in this area; this could help to inform future policy. The Plan Mid Devon Issues consultation received support for introducing a policy that addresses the Whole Lifecycle (WLC) carbon impacts of a development; any approach needs to be based on evidence that is clear, realistic and reasonable.

What are other authorities doing?

Bath & North East Somerset (BaNES)

[Sustainable construction checklist | Bath and North East Somerset Council](#)

A paper by the South West Net Zero Hub suggests BaNES planning policy can effectively improve energy efficiency. [B&NES net zero carbon planning policy likely to drive more efficient buildings and cut energy bills - \(swnetzerohub.org.uk\)](#)

Cornwall County Council

- [Cornwall Council - Local Plan 2010-2030](#)
- Cornwall Design Guide: [CDG-Main-Contents.pdf](#)
- [Cornwall Council - A Green Infrastructure Strategy for Cornwall](#)

Epping Forest DC

[EFDC Sustainability guidance & checklist major development](#)

EFDC asks for a whole-lifetime carbon assessment.

Exeter City Council

Exeter City Council proposes putting the Future Homes Standard (FHS) and Future Buildings Standard (FBS) into the emerging Local Plan as **Policy CC5**. The Exeter Plan is currently out to consultation.

[The New Local Plan – the Exeter Plan - consultation \(autumn 2023\)](#)

[Have Your Say Today - Exeterplanfull - Commonplace](#)

[Evidence base for emerging Exeter Plan - Climate Change - Exeter City Council](#)

They refer to the GESP (Greater Exeter Strategic Plan) low carbon study. [2020 Low Carbon and Climate Change Evidence Base](#)

South Oxfordshire DC

- [Local Plan 2035 - South Oxfordshire District Council](#)
- [Sustainable Construction Checklist - South Oxfordshire District Council](#)

Teignbridge DC (latest published).

[Appendix 4 PathwaysReport-NorthMidTeingbridge V1.1 \(swnetzerohub.org.uk\)](#)

[Further self build information - Teignbridge District Council](#)

Evidence for local plan review includes:

- [Proposed Submission Local Plan 2020-2040 - Sustainability Appraisal \(SA\) and Habitats Regulations Assessment \(HRA\)](#)
- [Policy CC2: Energy and Carbon Statements Topic Paper \(teignbridge.gov.uk\)](#)
- Wind energy 'sensitivity' assessment - [An Assessment of the Landscape Sensitivity to Onshore Wind Energy Developments in Teignbridge District](#)

Vale of White Horse DC

- whitehorsedc.gov.uk/wp-content/uploads/sites/3/2022/03/VOWH-Sustainable-Construction-Checklist-march-2022.pdf

CIBSE assessment with regard to climate change adaptation.

Resources online

The following resources might prove useful.

- Water efficiency and rainwater harvesting
- Sewage infrastructure and nutrient pollution
- Natural capital, nature conservation and biodiversity gains

Please refer to the [National Planning Policy Framework](#) (NPPF), [national building regulations](#) and the latest guidance on the [Environment Act 2021](#), [Biodiversity Net Gain](#) and [Biodiversity Duty](#), etc.

Advisory bodies and partnerships

The Good Homes Alliance - <https://goodhomes.org.uk/net-zero-planning-policy>

Publications and policy research papers

Building to net zero: costing carbon in construction. [Sustainability of the built environment \(parliament.uk\)](#)

The Green Infrastructure Framework is a commitment in the Government's 25 Year Environment Plan. Networks of *green* and *blue* spaces and other natural features can bring big benefits for nature and climate, health and prosperity.

[Green Infrastructure \(naturalengland.org.uk\)](http://naturalengland.org.uk)

The UK Green Building Council (UKGBC) provides a range of resources on solutions for high environmental and ecological standards in construction and retrofit.

Net Zero Carbon Buildings [Resource List](#)

- [Interactive Policy Map | UKGBC](#)
- [New Homes Policy Playbook | UKGBC](#)
- [Driving retrofit at scale: funding opportunities for local government | UKGBC](#)

A free embodied carbon tool (construction) [One Click LCA Planetary](#).

Section 3 – Statutory Officer sign-off / mandatory checks

Statutory Officer: Andrew Jarrett
Agreed by or on behalf of the Section 151.
Date: 12 Jan 2024

Statutory Officer: Philip Langdon
Agreed on behalf of the Monitoring Officer.
Date: 15 Jan 2024

Chief Officer: Richard Marsh
Agreed by or on behalf of the Chief Executive/Corporate Director.
Date: 12 Jan 2024

Performance and risk: Steve Carr
Agreed on behalf of the Corporate Performance & Improvement Manager.
Date: 12 Jan 2024

Cabinet member notified: Yes.

Report: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. No.

Appendix: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. No.

Section 4 - Contact Details and Background Papers

Contact: Jason Ball, Climate and Sustainability Specialist: Email: JBall@MidDevon.gov.uk Tel: 01884 255255.

Background papers: none.

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Briefing Paper: Environment Policy Development Group

Date of Meeting: 23 January 2024

Subject: Renewable Energy in Mid Devon

Contributions by Officers: Jason Ball, Climate and Sustainability Specialist. Tristan Peat, Forward Planning Team Leader. Isabel Cordwell, Forward Planning Officer.

What is the current situation in Mid Devon for renewable energy?

Up-to-date evidence required for the Local Plan is being drawn up. Tables 1 and 2 below show key Department for Energy Security and Net Zero (DESNZ) [statistics](#) on renewable energy installed in Mid Devon.

Table 1. Renewable Energy – Number of Installations in Mid Devon.

Photovoltaics	Onshore Wind	Hydro	Anaerobic Digestion	Sewage Gas	Landfill Gas	Plant Biomass	Total
4,963	37	2	10	1	1	1	5,015

Table 2. Renewable Energy Installed Capacity (MegaWatts) in Mid Devon.

Photovoltaics	Onshore Wind	Hydro	Anaerobic Digestion	Sewage Gas	Landfill Gas	Plant Biomass	Total
63.3	1.2	0.1	5.3	0.0	4.9	0.3	75.1

Source: [Regional Renewable Statistics \(www.gov.uk\)](http://www.gov.uk).

Previously there has been some independent assessment of potential and the local needs that could be met by sustainable energy. Evidence on current and potential renewables (with policy recommendations addressed to some extent) was researched and published as part of the Greater Exeter Strategic Plan (GESP) - its [evidence base](#) included a 2018 Low Carbon and Climate Change Evidence Base, [redrafted in 2020](#), which may provide a useful snapshot, and included assessments of potential for solar photovoltaics (PV) and onshore wind energy.

The Council is the local planning authority for Mid Devon District and has a statutory duty to prepare and keep up to date a Local Plan for the area. The Local Plan can include a vision and objectives for the future planning of the area, and policies and site development allocations to guide the development and use of land and buildings in relation to planning applications submitted for determination and the decisions made on these. There is scope within a local plan to include policies in relation to renewable energy in so much as where this is consistent with national planning policy ([National Planning Policy Framework](#)), planning guidance and legislation, and where necessary underpinned by relevant and up-to-date evidence that is adequate and proportionate to support and support and justify the policies concerned.

The Local Plan forms part of the development plan for the district, alongside the Devon Minerals and Waste Plans (prepared by Devon County Council and the minerals and waste local planning authority) and neighbourhood development plans prepared by Town and Parish Councils for their local areas.

There is scope for these other development plan documents to include policies relating to renewable energy. Members will note the Council is not responsible for their preparation, but can help to shape their content as a consultee.

The Mid Devon Local Plan 2013 - 2033 adopted on 29 July 2020 is published here: [Adopted Local Plan and Policies Maps](#). This includes the following policies which include provisions for renewable energy development in the district:

Policy S1 j) "...increasing the use and supply of renewable and low carbon energy..."

Policy DM2 Renewable energy and low carbon energy

Policies CU5 and CU11 include provision for sources of on-site renewable or low-carbon energy to provide a proportion of the site's energy use for strategic urban extensions planned at North West Cullompton and East Cullompton.

The preparation of a new Local Plan for Mid Devon (known as '[Plan Mid Devon](#)') is under way and once adopted will replace the current local plan and cover the period to 2043. The new local plan will provide an opportunity to review policies for renewable energy in Mid Devon, including the potential identification of suitable sites or locations for renewable energy development such as solar arrays and wind

turbines, in relation to current national planning policy, planning guidance and relevant legislation and Written Ministerial Statements.

An Issues Paper was consulted on in early 2022. The Issues Paper is the first stage in plan making - it placed responding to the climate emergency and moving to a net-zero carbon future as the overarching top priority for the new Local Plan. Technical work is currently being progressed, which will help to inform a Draft Policies and Site Options consultation report, to be published in late 2024. The current timetable for preparing the new local plan is published on the Council's website here: [Local Development Scheme](#). The timetable and preparation of the new Local Plan will be kept under review in light of anticipated forthcoming reforms to the plan making process which follow the Levelling-up and Regeneration Act 2023.

The Council has recently adopted a Non-Statutory Interim Planning Policy Statement: Climate Emergency ([Non-Statutory Interim Planning Policy Statement: Climate Emergency](#)). This includes guidance that clarifies how the requirements of relevant policies in the adopted Local Plan can be met in relation to climate change, which can assist the determination of planning applications, and it underlines that tackling climate change is a material consideration. The Statement includes a planning applications checklist, which has been brought into effect through an amendment to the [Council's local validation criteria for planning applications](#) that are submitted to the Council for determination. The checklist includes Objective CP.3.3 Using cleaner energy and a measure for renewable energy generation and supply. The Non-Statutory Interim Planning Policy Statement: Climate Emergency will also be used to help inform the preparation of the new local plan.

Members are recommended to refer to the Statement for information about relevant legislation and policy that has informed its content. However, this is not exhaustive in relation to the national legislation in relation to renewable energy and building standards e.g. the latest Written Ministerial Statements on Local Planning.

The Council adopted a Solar PV Developments in the Landscape Supplementary Planning Document in 2016 ([Landscape Implications of Solar PV Proposals](#)). While this may continue to be relevant to the determination of planning applications, it is intended to support policies of the Mid Devon Core Strategy (2007) and Local Plan Part 3: Development Management Policies, which are no longer in force and have been replaced with the current adopted Mid Devon Local Plan 2013 – 2033.

The Environment PDG is advised to note that the Council's Planning Policy Advisory Group will be engaged with ongoing work for the new Local Plan for Mid Devon throughout the plan making programme, and will be responsible for making recommendations to the Cabinet over the coming months at key stages in the plan's preparation. All Members are welcome to attend meetings of the Planning Policy Advisory Group and participate in the discussions about the new Local Plan.

What is the current situation in Mid Devon for community energy?

Community Energy [projects in Mid Devon](#) are rare, only a few projects were found, and we have been told (personal communication) that one community wind energy project is on hold until the strategic position changes. Although 'community energy' is usually assumed to be community-led cooperative projects with local benefits - the growth of home generation is significant, and there is important potential for new and retrofit renewables e.g. heat pumps, heat recapture and solar PV.

What role does the Council have in promoting energy systems suitable for the Net Zero transition?

As an organisation aiming for Net Zero by 2030, Council operations could benefit from more renewable energy at its sites - either for its own consumption or to sell (surplus) energy to neighbouring assets where feasible. Solar PV represents excellent potential for further investment and is already an important part of on-site energy supply. The decarbonisation project at Lords Meadow Leisure Centre demonstrates a complete shift away from fossil fuels (whilst cutting costs) with heat being provided from a combination of a biomass boiler (wood chip), direct electrical heating and heat pumps (ground and air source).

With regard to the development plan for the district, Planning Policy and the Council role as the Local Planning Authority (LPA) – please refer to the earlier section.

With regard to local energy systems and their Net Zero readiness, it is worth noting that Environment PDG March 2022 received a [briefing on local electricity networks](#). The government report [Modelling 2050 – Electricity System Analysis](#) indicates the scale of the challenge: "Electricity will be increasingly important in supporting delivery of net zero, **potentially providing around half of final energy demand** as its use for heat and in transport increases."

Other energy types in the energy supply 'system' such as hydrogen, fossil fuels, biogas and biomass also need to be considered. The Council can help promote timely and appropriate upgrades and evolution of local energy systems through e.g. participation in consultations with energy system operators and sharing of information on development planning, local needs and installations. The Council is a member of Devon's Local Energy Planning Group, coordinated by Devon County Council, which has begun to commission baseline data and seeks to develop a modelling capability for future energy system scenarios, as a way to inform appropriate and investable projects.

Risks to energy supply and infrastructure are among the major threats identified in relation to climate change, which highlights the need for investment in preparedness and resilience (climate adaptation).

Section 3 – Statutory Officer sign-off / mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151.

Date: 12 Jan 2024

Statutory Officer: Philip Langdon

Agreed on behalf of the Monitoring Officer.

Date: 15 Jan 2024

Chief Officer: Richard Marsh

Agreed by or on behalf of the Chief Executive/Corporate Director.

Date: 12 Jan 2024

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager.

Date: 12 Jan 2024

Cabinet member notified: Yes.

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Appendix: Exclusion of the press and public from this item of business on the published agenda on the grounds that it involves the likely disclosure of exempt information. No.

Section 4 - Contact Details and Background Papers

Contact: Jason Ball, Climate and Sustainability Specialist: Email:

JBall@MidDevon.gov.uk Tel: 01884 255255.

Background papers: none.

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ENVIRONMENT PDG WORK PLAN 2023-2024



Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
23rd January 2023				
10.10.23 14.11.23	MDDC Draft Budget 2024-25 Second Review To review the draft Budget for 2024 - 25		Deputy Chief Executive (S151) Andrew Jarrett	
23.01.24 6.02.24	Environment Educational Enforcement Policy		Matthew Page	
23.01.24	Climate and Sustainability Update		Jason Ball	
23.01.24 6.02.24	The Council's Statutory Duty towards Bio Diversity and Nature		Climate and Sustainability Specialist	
23.01.24 6.02.24	Renewable and Alternative Energy, Energy Efficiency including Community Energy Projects		Jason Ball	
23.01.24 6.02.24	Green Standards in Planning including Renewable and Alternative Energy, Energy Efficiency and Community Energy Projects		Jason Ball	

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Agenda Item 11

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
12th March 2023				
12.03.24	Climate and Sustainability Update		Jason Ball	
12.03.24	Recycling of Coffee Pods To discuss the possibilities for the recycling of Coffee Pods		Matthew Page	
12.03.24	Recycling of Pots and Pans To discuss the possibility of Recycling Pots and Pans		Matthew Page	
12.03.24	Chairman's Report for 2023-2024 To receive a report from the Chairman of the Environment PDG on the work of the Group for 2023-2024			