



Compulsory Recycling Policy

Date of issue: January 2020

Review Date: January 2030

Contents

1. Introduction
2. Compulsory recycling, Section 46 Policy
3. Enforcement Procedure

1.0 Introduction

In November 2015, Mid Devon District Council introduced a Compulsory Recycling Policy in line with the above legislation, aimed at encouraging residents to put their waste out in the correct containers and at the correct times as prescribed by us.

Current recycling procedures are a black recycling box for paper, glass, tins, cans, household metals, textiles, batteries and for the recently introduced mixed plastics. There is a green recycling box for cardboard and cartons. Both of these boxes are collected fortnightly.

In the autumn of 2015, Mid Devon District Council introduced weekly food waste kerbside collection using blue food caddies and an opt-in fortnightly chargeable garden waste collection service using a brown bin.

One of the purposes of introducing compulsory recycling is to increase our recycling performance and to reduce costs for the Council. This will have a positive effect by reducing the amount of waste especially garden waste that goes into landfill, by minimising the impact on the environment and at the same time promoting the waste hierarchy. A noticeable improvement in the cleanliness of the district has been proven in other districts that have also introduced this scheme.

The legislation is aimed at encouraging everybody to use the right containers for the right kind of materials.

2.0 Policy 24 – Education and Enforcement

2.1 Everyone should take responsibility for the waste they produce and Mid Devon District Council 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 council website, leaflets, posters, events and working with community groups.

2.2 The council has statutory duties under the amended Environmental Protection Act 1990 (“the Act”) to keep the streets clean and clear of litter and refuse. This legislation also gives us powers to tackle local environmental quality issues and to undertake enforcement.

2.3 The council recognises that residents may take time to be accustomed to the service requirements contained in this policy. Consequently, the council will adopt an approach that will always offer advice, support and guidance as the first and preferred way to establish this policy.

2.4 The council is aware however that resorting to the use of formal powers may be necessary in some circumstances and is committed to seeing such measures applied in an open, reasonable and proportionate way.

2.5 A Notice under Section 46 (1) of the amended Environmental Protection Act 1990 needs to have been served on a property before any enforcement action can be pursued for this type of offence.

2.6 This Notice formally requires the occupier to place the waste for collection in receptacles of a kind and number specified and effectively sets the ground rules for the way household waste should be managed by residents.

2.7 This Notice is in addition to the information within the collection calendars that are sent to every residential address in Mid Devon and also available on the Mid Devon 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.

The following identifies the approach that will 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, persistently ignored and where this behaviour continues despite the informal actions detailed at Stages One and Two below.

3.0 Enforcement Procedure

3.1 Stage One

On the first occasion (a Section 46 (1) Notice having already been served), officers who witness incorrect presentation, such as the presentation of excess 'side waste' or contamination with non-recyclable waste, will advise householders with the use of a 'nudge letter' that seeks to remind them of how they must present their waste for collection in the future. A sticker may also be used to help draw the residents' attention to the problem.

3.2 Stage Two

Following Stage One, if the problem persists or there is a reoccurrence, then consideration should be given to moving the case to Stage Two which is a written warning under section 46A of the Act. This warning can only be given if:

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

(b) ("Condition 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 a year.

3.3 Stage Three

Continued 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:

3.3.1 The person has again failed without reasonable excuse to comply with the Section 46 (1) Notice requirement identified in the warning under Section 46A and the person's failure to comply has had, or is or was likely to have, the effect described in Condition B (see above) or

3.3.2 The person has failed without reasonable excuse to comply

with a Section 46 Notice requirement that is similar to the one identified in the warning under 46A and the person's failure to comply has had, or is or was likely to have, the effect described in Condition B (see above).

A Notice of Intent would be served on the occupants of the property from which the incorrectly presented or contaminated receptacle originated or appears to have originated. A Notice of Intent can be issued each time there is an infringement, provided the conditions set out above are met, within a year of giving a written warning. The Notice of Intent informs the occupant that the council intends to require them to pay a Fixed Penalty. 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 to be valid, the requirement for the Fixed Penalty will be withdrawn. Otherwise, the case will continue to the next formal stage.

3.4 Stage Four

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. The tribunal is external to the council and has the power to uphold or withdraw the requirement to pay the Fixed Penalty. The council's delegated officer (ie District Officer) must therefore record their considerations 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 the council will pursue unpaid Fixed Penalties in accordance with its procedures for debt recovery.

The Fixed Penalty rate is set at £80.00, 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.

Note

There are detailed statutory requirements setting out what the Notices should contain. All Notices served must comply with the statutory requirements to be valid. Standard Notices are produced to ensure compliance. All stages must be completed within 6 months of the first notice being issued.