



# **Compulsory Recycling Policy**

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## **1.0 Introduction**

- 1.1 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 Mid Devon District Council.
- 1.2 Current recycling procedures are specified on the Mid Devon District Council website.
- 1.3 In the autumn of 2015 Mid Devon District Council introduced a weekly food waste kerbside collection using blue food caddies and an opt-in fortnightly chargeable garden waste collection service using a brown bin.
- 1.4 One of the purposes of introducing compulsory recycling is to increase recycling performance and to reduce costs for the Council. This has had a positive effect by reducing the amount of waste.
- 1.5 The Environmental Protection Act 1990 legislation is aimed at encouraging everybody to use the right containers for the right kind of materials.

## **2.0 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 Mid Devon District Council website, leaflets, posters, events and working with community groups.
- 2.2.1 Mid Devon District Council 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 Mid Devon District Council the powers to tackle local environmental quality issues and to undertake enforcement.
- 2.2.2 Mid Devon District Council recognises that residents may take time to get accustomed to the service requirements contained in this policy. Consequently Mid Devon District Council will adopt an approach that will always offer advice, support and guidance as the first and preferred way.
- 2.4 Mid Devon District Council are aware 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 provided on the Mid Devon District Council 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 detailed at Stages One and Two below.

### **3.0 Enforcement Procedure**

#### **3.1 Stage One**

- 3.1.1 On the first occasion, and where a Section 46 (1) Notice has 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**

- 3.2.1 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) 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.

- 3.2.2 The warning remains in force for a year.

#### **3.3 Stage Three**

- 3.3.1 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:

- (a) 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
- (b) 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).

3.3.2 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**

3.4.1 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.

3.4.2 The tribunal is external to Mid Devon District Council and has the power to uphold or withdraw the requirement to pay the Fixed Penalty. Mid Devon District Councils 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 Mid Devon District Council will pursue unpaid Fixed Penalties in accordance with its procedures for debt recovery.

3.4.3 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.

### **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.



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

The Occupier  
>  
>  
>

Your Ref:  
Our Ref: 20/>/WASTE

website: [www.middevon.gov.uk](http://www.middevon.gov.uk)  
contact: Street Scene Services  
telephone: 01884 255255  
e-mail: [streetscene@middevon.gov.uk](mailto:streetscene@middevon.gov.uk)

Date: > 2020

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/](http://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.

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