



# **Compulsory Recycling and Household waste Policy**

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