

Waste and Recycling Enforcement Policy

Cabinet Member Cllr Neal Davey
Responsible Officer Waste & Transport Manager

Reason for Report: To consider and agree the recommendations for Cabinet on the Waste and Recycling Enforcement Policy for the start of the new Collection Scheme commencing in October 2015.

RECOMMENDATION(S): That the PDG recommends to the Cabinet the following:

1. That the Waste and Recycling Enforcement Policy is adopted
2. That the level of Fixed Penalty Notice for not recycling is set at £75 with a reduction to £50, if paid within 14 days and where fixed penalty notices are not paid prosecution will be pursued
3. That power to serve s46 Environmental Protection Act notices be delegated to the relevant Head of Service or other appropriate Senior Manager.

Relationship to Corporate Plan: Maintaining front line services in the face of the ongoing funding cuts requires the redesign of services to enable them to continue to be affordable.

Financial Implications: The increase in recycling should provide savings but the levels of savings are unknown. Each tonne of waste which is recycled saves the taxpayer over £110 in landfill costs plus any income received from the sale of the material.

It is expected that some level of income will be achieved from the issue of fixed penalty fines. It is not possible at this time to identify what the level of income this will be, but this will be monitored and assumptions built into future years budgets. The level of income from FPNs is not expected to significant.

Funding of the new Enforcement Officer comes from within existing budgets already approved by Cabinet.

Legal Implications: The legislation/policy implications are set out in the body of the report.

Risk Assessment: Members of the PDG have agreed that, without considering and implementing changes to service delivery, the Council will face the risk that it runs a service that is not affordable or will require deeper cuts to other services to support it. Without the introduction of this policy garden waste could be presented for collection in black sacks by householders once charges are introduced and therefore undermine the affordability of the new scheme.

1.0 Introduction

- 1.1 At the Managing the Environment PDG meetings on 18 November 2014 and 9 June 2015, a list of recommendations were made to the Cabinet regarding the future waste collection scheme which were adopted.
- 1.2 This report is a proposal regarding how enforcement activity in waste and recycling will be introduced and managed including a definitive process for the enforcement of s46 of the Environmental Protection Act 1990 (EPA).
- 1.3 Section 46 of the Environmental Protection Act gives Waste Collection Authorities the power to enforce against householders who present waste material for collection in incorrect receptacles or at a date, time or frequency contrary to that prescribed. The introduction of s46 powers is seen as an important tool in satisfying Council and Residents' aspirations by trying to achieve cleaner greener and safer neighbourhoods as well as being instrumental in enabling the Council to increase its recycling rate.

2.0 Policy

- 2.1 The detailed policy can be seen at Appendix 1.
- 2.2 The policy will allow the Council to monitor waste put out for collection by residents following the introduction of its new scheme. The aim of the policy will be to help educate the public on the new scheme so that as much material can be recycled as possible.
- 2.3 The Council intends to use its powers under s46 of the Environmental Protection Act to assist in achieving high levels of recycling. Although the Act gives the Council power to impose penalties against non-compliance it is the intention of the Council to do this only as a last resort against persistent offenders. The Council will ensure that residents receive relevant information and education before issuing Fixed Penalty Notices or taking prosecutions against residents. The procedure for progressing should it become necessary is laid out in the policy.
- 2.4 The details of the receptacles provided, other acceptable receptacles and collection frequency are set out in a leaflet which will be delivered to all households when the new scheme is rolled out. The details of the types of materials that are accepted in each type of receptacle will also be set out.
- 2.5 In accordance with the requirement of the legislation a notice of intent to adopt the powers under s46 EPA must be communicated to each individual household in the District. This will be done by means of an informal letter. This letter will explain that, with effect from a specific date, it will be compulsory for all households to separate their waste for recycling and present it for collection in the appropriate receptacle on the scheduled date and at the appropriate time. (see Appendix 2) and a process flow chart (see Appendix 3).
- 2.6 **First Offence:** Should it be identified that waste has been presented in the incorrect receptacle, the waste will not be collected at this time and a label attached explaining why. The resident will be contacted (in person or by

posting relevant information to the householder) by a Council Enforcement Officer and offered advice as to how the waste should be correctly presented for. A stage 1 letter will be issued to the resident (see Appendix 4), which is a formalised letter describing in detail how waste should be presented for collection in future. A further copy of the original notice and accompaniments will also be supplied. The resident shall be informed that this will be logged as a first offence and that any further offences, of a similar nature could result in the issuing of a fixed penalty notice. This visit shall be logged by the officer and recorded as a first visit/warning. The Council shall on this occasion remove the waste from the collection point.

- 2.7 **Second Offence:** Should it be identified that waste has been presented in the incorrect receptacle, it will not be collected and a label attached explaining why. A Council Enforcement Officer will contact the resident. On this occasion the officer will visit the resident and repeat the first warning, indicate that this is the second such warning and shall also insist that the resident takes back the waste and represents it in the correct receptacles on the next collection date. A warning will be given that any future offence will result in the issue of a fixed penalty notice. The visit will be logged as a second and final warning and a formal notice under s46 Environmental Protection Act (see Appendix 5) shall be issued to the resident. This document shall be fully compliant with the requirements of the act and will enable the Council to take action to prosecute the resident should it be required.
- 2.8 **Third Offence:** Should it be identified that waste has again been presented in the incorrect receptacle the waste will not be collected and a label attached explaining why. A Council Enforcement Officer will visit the resident. On this occasion the officer will point out that this is the third such visit and on this occasion a fixed penalty notice shall be issued under s47(z)(a) EPA. Failure to pay the penalty within 14 days shall result in the resident being prosecuted by the Council. The resident will again be asked to take back the waste and re-present it correctly for collection on the next collection date. In addition the resident shall be warned that any further offences will result in further fixed penalty notices and/or prosecution via the Magistrates Court that could result upon conviction or a fine of up to £1000.00.
- 2.9 **Fixed Penalty Rate:** Should be initially, set at £75, reduced to £50 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.
- 2.10 **Warning Period:** No warning will remain “live” for longer than six months. Where a resident has previously received a warning and a further warning is required outside of the six-month period, the offence will not be escalated but dealt with as a first offence.

3.0 Enforcement Safeguards

- 3.1 **Assisted Collections:** Residents that currently receive assisted refuse/recycling collections will continue to do so. In some circumstances residents receiving assisted collections do not personally handle their waste; this could be done by a carer. In these circumstances no enforcement action will be taken against an individual and every effort will be made to contact the carer

to convey the correct waste separation requirements. Regardless of the mix of the presented waste, to avoid distress for the resident, all receptacles will be collected.

- 3.2 **Learning Difficulties/non-English speakers:** In situations where the resident has not been able to understand the information that has been supplied regarding the implications of s46 EPA, information will be made available in alternative languages or explained verbally. No enforcement action will be taken against any individual until it is absolutely certain that they have received all the required information in a format that they understand.

4.0 **Staffing**

- 4.1 One vacant District Officer posts has been recruited to pursue this policy and to assist with the introduction of the new scheme. There are no direct staffing consequences as the result of this report, however, issuing fixed penalty notices for these environmental offences will be new to some staff and we will need to ensure appropriate training is provided before the enforcement activity commences. It will be made abundantly clear to staff that they must not endanger themselves whilst issuing a fixed penalty fine.
- 4.2 It is proposed that all District Officers be trained allowing the Council to direct resource to priority areas as and when required.

Contact for more Information: Stuart Noyce, Waste & Transport Services Manager (01884 244635 snoyce@middevon.gov.uk)

Circulation of the Report: Cllr Neal Davey, Management Team