

# **APPENDIX 7 – Tameside Metropolitan Borough Council Waste Policy and Enforcement Strategy**

## **1. Introduction**

## **2. Waste and Recycling Collections**

## **3. Expectation from Residents**

## **4. Enforcement Framework**

### **1 INTRODUCTION**

- 1.1 This policy has been developed to inform residents of the services that the Council provide and also outlines what residents can do to help deliver the waste and recycling service.
- 1.2 The Council aims to work with the local community to help residents recycle as much as possible and to manage their waste in the most cost effective and efficient way.
- 1.3 There is also a framework of enforcement action that will be applied in a reasonable and proportionate way.

### **2. WASTE AND RECYCLING COLLECTIONS**

- 2.1 Residents in all properties will receive waste and recycling collections at a time and schedule determined by the Council.
- 2.2 The Council will make all reasonable effort to empty bins presented by residents in accordance with this policy. If however, the Council is unable to empty bins on the scheduled day of collection, residents are requested to leave bins out for collection and the crew will return to collect the waste or recycling at the earliest operational opportunity.
- 2.3 The Council provides a recycling led service and all residents are expected to recycle waste in accordance with the services provided.
- 2.4 For properties determined by the Council as having adequate storage and access for wheeled bins, the following service provision applies:

Colour	Capacity	Material	Frequency Collected	Provision of Extra Receptacles
Black	180L	Glass, Plastic bottle, Cans, Aluminium Foil	Three Weekly	Additional 180L bins provided on request at an additional charge.
Blue	140L	Paper, Cardboard, Tetra Paks	Three Weekly	Additional 140L bins available on request at an additional charge
Brown	240L or 23L lidded Food waste container issued to properties without a garden	Food and Garden Waste	Weekly	Additional 140L/240L bins or 23L food waste containers available on request at an additional charge
Green	140L	General Waste	Fortnightly	Additional or larger green bins will only be provided in circumstances outlined in section 2.9 of this policy

- 2.5 Properties determined by the Council as not having adequate storage and access for wheeled bins, will be provided with a weekly collection of 4 black domestic waste sacks. Upon each collection the waste collection crew will replace the 4 sacks removed.
- 2.6 General Waste bins already attracts a charge of £25.63, all other wheeled bins will be charged as follows: (NOTE: These prices will be reviewed on an annual basis).

Bin Type	Cost
140 litre wheeled recycling bin (green/blue)	£25.63
240 litre wheeled recycling bin (brown/black)	£25.63
7 litre food caddy	£3
23 litre food caddy	£5
A full set of bins (specifically green 140l; blue 140l, black 180l and 180l brown), for new properties	£102.52 (plus the cost of either a 7 or 23 litre caddy, as required).

- 2.7 Any qualification for a second green bin will see the second bin delivered without charge as per the current Exceptional Circumstances Policy. (see 2.34)

2.8 There will be situations where the charge for a new or replacement bin can be waived, including for example:

- The crew whilst collecting waste has damaged a bin.
- A bin has fallen into the vehicle and the crew has confirmed this.
- When a bin has been vandalised/damaged/failed and is beyond use.
- Meeting the conditions of the Exceptional Circumstances Policy, where service users meet the requirements for a second green bin.
- An individual named as the occupant/householder, who qualifies for means tested benefits and can evidence that position.
- Justification by a Supervisor or member of the Waste management team.

2.9 All free bins issued will be recorded, including the justification for approval and multiple drawdowns of free bins, by a resident, will not be approved.

#### **Service for Flats**

2.10 Waste and recycling from residents living in flats is collected via communal bins which are regularly emptied.

#### **Service for Housing Multiple Occupancy (HMO)**

2.11 Only 1 of each bin will be provided once purchased. Owners of HMO will need to have a trade waste contract in place to provide the correct facility for these kind of premises.

#### **New and Existing Apartments/Flats/Developments**

2.12 Landlords or the developers are required to purchase the required bins. The Council will specify the type and number of bins required at the planning stage, when consulted on the building/development's requirements.

2.13 Landlords who choose to purchase their own approved containers should note that all repairs and maintenance of those containers are their responsibility. The Council will not accept liability for any damage sustained to containers during collection.

2.14 Bin store areas are the responsibility of the landlord who should ensure that bins can be accessed on the day of the scheduled collection. All waste/recycling must be presented for collection in waste containers/wheeled bins.

2.15 It is the responsibility of the landlord/management company to ensure bin stores are kept clean and tidy. Where access to a bin is blocked by loose rubbish or bulky items it will not be emptied until this has been removed. The bin will then be emptied on the next scheduled collection day, charges will be applied if an expedited collection is required.

#### **Service for Rural Properties**

2.16 There are some locations within the Borough that are difficult to access due to the condition of the road surface where there are difficulties in using a normal sized waste collection vehicle.

2.17 In these circumstances, where determined appropriate by waste services, the Council will use a smaller collection vehicle to collect general and recycling waste. Unfortunately, the Council is currently unable to operate food and garden waste collections for rural properties; therefore, rural properties will receive a 180 litre bin for non-recyclable (General) waste.

### **Missed Collections**

- 2.18 When bins are presented correctly, the Council will make every reasonable attempt to collect recycling and general waste from households, on the scheduled day. The collection schedules will be available on the website and via the App. Properties that have a Rural Collection as described above will be notified in writing of their collection schedule.
- 2.19 If the access to the property is obstructed the crew will make three attempts on the scheduled day of collection to collect the container. The crew will report any containers presented incorrectly and any access issues encountered.
- 2.20 Where General waste or recycling containers have not been presented correctly, they will not be collected until the next scheduled collection. In these circumstances residents will be required to return their bin to their property until the next collection.

### **Collection Points**

- 2.21 In situations where collections cannot be made at edge of the householder's property, the Council will identify a central point of collection.
- 2.22 In determining collection points for those affected properties, consultation will take place with the householders concerned.
- 2.23 Householders will be required to place their recycling or general waste bin at the specified collection point, on their scheduled day and then retrieve their bin from the collection point at the end of the day once emptied.

### **Waste and Recycling Collections at Christmas**

- 2.24 No collections will take place on Christmas Day, Boxing Day and New Year's Day. All other collections will remain the same.
- 2.25 Changes to the waste collection schedule will be advertised in the local paper and also on the Council website and social media feeds.

### **Additional Capacity**

- 2.26 The collection services the Council provides to residents are sufficient and adequate for most residents to manage the households' waste needs.
- 2.27 To encourage waste minimisation and recycling, the Council will only collect 140 litres of non-recyclable (General) waste per household, per service cycle. The Council does recognise however, that some large households or residents with certain medical conditions may produce more than 140 litres of General waste at each collection despite fully participating in the recycling service.
- 2.28 Where residents feel that they do not have sufficient general waste capacity they can make an application for additional capacity this will include keeping a waste diary to record all waste disposed of from the property in a two week period. The Council will assess the application and determine if additional General waste capacity is required. This may result in a Recycling Officer carrying out a visit to the property.
- 2.29 There are exceptional circumstances where, due to clinical waste needs or larger households (6 persons or more) more general waste is created than normal. In these circumstances residents will not be required to complete a waste diary, but will be asked to apply for an additional General waste bin.

- 2.30 The householder's use of the additional bin will be subject to review. The additional bin may be removed should residents be found to have obtained the additional bin under false circumstances or have changed circumstances affecting their entitlement to additional capacity since the bin was issued.
- 2.31 The circumstances above are referred to as Exceptional Circumstances and are captured in the Exceptional Circumstances Policy, which reads as follows:
- 2.32 The recycling and refuse collection system currently provided by Tameside Council will work well for the majority of people. Having stated that we recognise that different families present different circumstances and we recognise that a minority of those families will require extra capacity for the disposal of their landfill waste and recycling.
- 2.33 We have developed an exceptional circumstances policy to help us assist with providing the right service to those families.
- 2.34 The policy is as follows:
- 2.35 If you live in a large household (6 or more residents) or if you put healthcare waste such as swabs or dressings, incontinence pads or stoma bags in your landfill bin and you need more room to store your waste and recyclable material, please make contact with our Waste Team so we can assess your requirements.
- 2.36 To qualify for additional capacity you must be able to demonstrate that you have 6 or more residents permanently residing in the property, or you have healthcare waste as described above.
- 2.37 If none of the above applies, but the service user still feels they are unable to cope with the capacity provided, we can provide the service user with a Waste Diary for one week. This will assist an officer with assessing the disposal requirements and areas where assistance can be provided.
- 2.38 When the Waste Diary has been completed an officer will visit the applicant's property and perform a waste audit at the applicant's home to determine whether or not extra capacity will be provided.

#### **Assisted Collections**

- 2.39 The Council offers assisted collections to residents who are infirm or who cannot put their waste out on the collection day due to a qualifying health condition or disability. This means that waste and recycling crews will pull out the bins from an accessible location so that they can be emptied and then returned.
- 2.40 This service is subject to no other able bodied person living at the property.
- 2.41 Residents will be required to make an application for this service. In order to reduce abuse of this service the Council will require all applicants to return a medical assessment form signed by their general practitioner with their application form.
- 2.42 **Provision of waste and recycling bins**

Replacing bins for the collection of waste presents a significant ongoing cost to the Council.

- 2.43 Residents are required to purchase all the required bins when moving into a new property.
- 2.44 Residents in new and existing properties are required to pay for replacement containers, both recycling and general waste. The only exceptions to this are if;
- It is no longer serviceable and poses a health and safety risk to the operatives/residents.
  - It has been crushed during collection. In this case the crew will report to waste services and a new bin will be provided free of charge.
  - An exceptional set of circumstances have been presented and considered by the Head of Service. All bins that are issued without charge will be recorded as long with the exceptional circumstances and reasons for the decision made. (Pre-used bins may be used when supplying bins without charge.)
- 2.45 Residents are advised to clearly mark the bins so they are clearly identifiable as their own bin. It is advised that bins are returned to properties as soon as practicably possible to prevent any loss of the owned/purchased bins.
- 2.46 The provision of waste and recycling wheeled bins for new multi occupancy (flats) developments will be the responsibility of the developer.

#### **Bulky Household Waste Collections**

- 2.47 The Council provides a separate collection of bulky household waste items. A standard charge per collection will be made and the scale of charges for the collection of bulky items will be publicised by the Council and reviewed annually.
- 2.48 The Council do not collect bulky waste items such as; beds, washing machines and furniture, free of charge. These should not be left out for the domestic waste collection
- 2.49 The bulky household collection service covers the removal of up to five items.
- 2.50 Bulky waste items may also be taken to the Household Waste Recycling Centre or donated to a local reuse charity.
- 2.51 The collection of white goods is provided free of charge to pensioners.
- 2.52 Information regarding the cost of this service, what items can be presented for collection and arrangements for collection can be found on the Council's website.

#### **Trade Waste**

- 2.53 The Environmental Protection Act 1990 requires all businesses that produce controlled waste to ensure that their waste is adequately stored and disposed of. Businesses are required to keep documents relating to the disposal of waste for a period of two years and are required to have these available for inspection when required by the Council.
- 2.54 Individual businesses are responsible for the presentation and management of their trade waste. They can enter into a contract with either the Council or any other commercial waste collection service who will provide storage containers and collection of waste.
- 2.55 Trade or commercial waste should not be placed in household bins, litter bins, or taken to the household waste recycling centre.

- 2.56 The Council offers local businesses a weekly trade waste collection service. Customers sign up on a rolling contract basis.

The following sizes of waste containers are available;

- 240 Litre
- 500Litre
- 1100 Litre

- 2.57 Customers pay all charges in advance, either annually in full or monthly by Direct Debit. These charges include the container hire, collection and disposal charges for recycling and non-recycling collections and all administrative costs, including duty of care documentation.

- 2.58 Any business found to be not complying with their responsibilities regarding waste may face enforcement action under section 4.34 of this policy.

### **3. EXPECTATIONS OF RESIDENTS**

- 3.1 All householders have a legal responsibility to ensure that all of their rubbish and waste is disposed of properly.

#### **Presentation of bins for collection**

- 3.2 All bins or sacks should be made available for collection no later than 7am on the morning of the scheduled collection. Bins or sacks should not be presented for collection any earlier than 5pm on the evening before the scheduled collection.

- 3.3 Wheeled bins and sacks should be placed where the public highway begins and private land ends (the edge of the property).

#### **Excess General Waste – Side Waste**

- 3.4 Side waste is excess bags from the household, which are presented for collection at the side of the bin. The Council will not remove waste presented for collection alongside, or on top of, General waste bins.

- 3.5 The Council encourages residents to recycle as much as possible and will allow residents to have additional recycling bins to ensure individual households have sufficient capacity to meet their requirements. Any additional bins, including Recycling bins will be subject to a charge, unless the applicant qualifies for a free bin, under the Exceptional Circumstances policy.

- 3.6 All General waste should be contained within the green bin, any excess waste will be treated as illegally dumped waste and enforcement action may be taken in accordance with section 4.22 of this policy.

#### **Excess General Waste – Closed Lids**

- 3.7 Where wheeled bins are presented with waste that does not fit comfortably within the container and the lid is ajar, the crew will empty the bin and place the excess waste back into the bin. A notice may be left on the bin explaining why the excess waste has not been collected.

#### **Excess Recycling Waste**

- 3.8 Residents may request additional recycling bins, but they are subject to a charge. Alternatively, residents may place additional recycling materials for collection so long as it is identifiable in a clear bag.

### **Bins on Pavements**

- 3.9 Collection crews are instructed to return bins to as close to the area they were collected from, as is reasonable and practicable. It is the responsibility of residents to take bins back to their property by the end of the day on which they are collected.
- 3.10 If residents fail to return the bins back to their property without reasonable excuse, enforcement action may be taken under section 4.27 of this policy.

### **Contamination of Bins**

- 3.11 Contamination occurs when the wrong waste is placed in the wrong bin. It is important that the Council collects good quality materials for recycling. Putting items that cannot be recycled in recycling bins reduces the quality of our recycling and may mean that the entire load is rejected when tipped off. This means that the waste is disposed as general waste, a single contaminated load can cost the Council up to £3000.
- 3.12 Where it is established that recycling containers are repeatedly not being used correctly, enforcement action outlined in 4.27ff will commence and the service will consider removing the bins

### **Householder Duty of Care**

- 3.13 Some people pose as legitimate waste carriers and then fly tip rubbish, which they have been paid to dispose of properly. If any fly tipped waste is traced back to the household it came from, the householder could be fined.
- 3.14 Under the Household Waste Duty of Care Regulations 2005, householders are required to take reasonable measures to ensure that household waste produced on their property is passed on to an authorised person.
- 3.15 If a waste carrier other than the Council is used householders must carry out the following check;
- Ask the contractor if they are a registered waste carrier and ask for their waste carrier number.
  - If they claim to be registered telephone the Environment Agency on 08708 506506 and ask for an instant Waste Carrier Validation Check, or visit the Environment Agency website to check online.
  - Ask for a receipt detailing the work they have carried out.

## **4. ENFORCEMENT FRAMEWORK**

- 4.1 This policy specifies Tameside Council's methods for dealing with the enforcement approach in tackling waste issues.
- 4.2 The Council aims to educate local residents and businesses to understand their role with regard to responsible waste management.
- 4.3 Enforcement action includes verbal warnings and advice, written advice, warning letters, statutory notices, formal warnings, the issue of fixed penalty notices, formal cautions and prosecution. Action taken will be proportionate to the scale of the identified problem.
- 4.4 The Council will follow a staged approach to enforcement. Although the Council will take an incremental approach to education and non-compliance, the level of enforcement may be escalated depending on the nature and severity of the case.



### **Relevant Legislation**

- 4.5
- Accumulations of Waste – s4 Prevention of Damage by Pests Act 1949; s79 & 80 Environmental Protection Act 1990; s78 Public Health Act 1936;
  - Illegal dumping/fly tipping – s33, s34 & s59 Environmental Protection Act 1990;
  - Trade waste & duty of care – s34 & s47 Environmental Protection Act 1990
  - Household waste bin enforcement – s46 Environmental Protection Act 1990
  - Litter – s87 & s88 Environmental Protection Act 1990

### **Enforcement Options Available**

- 4.6
- There are a large number of potential enforcement options. The level of the action taken varies from informal advice through to proceedings in Court. Examples of the main types of action that may be considered are shown below:

- Informal action, education and advice
- Statutory Notices
- Fixed Penalty Notices
- Simple Caution
- Prosecution

### **Informal Action**

- 4.7
- Minor incidents are frequently dealt with by means of informal action and would involve the officer drawing the matter to the attention of the individual and giving appropriate guidance.

- Verbal advice. To be given where the offender shows an understanding and willingness to remedy contraventions of a minor nature.
- Written advice. To be used where there is no imminent risk to health and the officer believes the offender will co-operate in remedying the offence. Written advice may also be given where it is felt necessary for the offender to consider their liabilities under law.

- 4.8
- Failure to comply could result in an escalation of enforcement action.

### **Statutory Notices**

- 4.9
- Many Acts of Parliament enforced by the Council provide for the service of statutory notices which require a person, business or organisation to comply with specific legal requirements. Where a formal notice is served, the method of appealing against the notice will be provided in writing at the same time. The notice will explain what is wrong, how to put it right and what will happen if the notice is not complied with.

- 4.10
- In many circumstances the legislation will allow the cost of any necessary work carried out in default to be recovered from the offender. Where legislation permits a charge will be placed on the property to ensure the payment is made.

- 4.11
- In general, failure to comply with a statutory notice (including a fixed penalty notice of the type where payment is required to discharge liability) makes the recipient liable for prosecution. In some circumstances, it is possible to prosecute as well as serve notice. Failure to comply with the notice would be an additional offence.

### **Fixed Penalty Notices**

- 4.12
- In certain circumstances it may be appropriate to issue a fixed penalty notice for the relevant offence. The fixed penalty will allow the offender to discharge liability for the offence and avoid action through the Magistrates' Court.

4.13 FPNs must only be issued where there is sufficient evidence to prosecute. If the FPN is not paid within a specified time the case should proceed to prosecution.

#### **Formal Caution**

4.14 Officers can recommend that offenders receive a formal caution in accordance with Home Office guidance. This is one step below prosecution; however, offenders must admit the offence and accept the caution.

4.15 Failure to accept the formal caution could result in prosecution, as would further similar breaches after the caution has been issued.

4.16 A formal caution will only be used where there is evidence of guilt sufficient to give realistic prospects of conviction.

#### **Prosecution**

4.17 When considering prosecution, officers must follow the guidance in the Code of Practice for Crown Prosecutors

4.18 The decision to prosecute will be made by a Senior Manager in conjunction with Legal Services taking account these criteria;

- Firstly, an evidential test to ensure that there is enough evidence to provide a 'realistic prospect of conviction'. If this is lacking, then no prosecution or alternative means of disposal of criminal offences will be taken.
- Secondly, a public interest test, which will determine whether it is in the public interest for a prosecution to be taken.

4.19 Prosecution shall be initiated when one or more of the following are met:

- There is a history of similar offences and/or written warnings have been ignored.
- Non-compliance with a statutory notice.
- Failure to pay a fixed penalty notice.
- Refusal to accept a simple caution.
- Serious breach of the law leading to a risk to the health of residents and/or the environment.
- There is enough admissible and reliable evidence to show an offence has been committed by an identifiable individual/business.

#### **Offences**

4.20 The majority of waste related offences fall into six categories;

- Littering
- Large scale illegal dumping
- Complaints related to waste collections
- Accumulations of waste in communal areas
- Accumulations of waste on private land
- Trade waste

#### **Enforcement – Littering**

4.21 Litter is unsightly and illegal. Under Section 87 of the Environmental Protection Act 1990 it is an offence to drop litter on any open land.

4.22 There is no statutory definition of "litter and refuse" under the Environmental Protection Act 1990. However, the code of practice issued in respect of dealing with litter and refuse states that the definition is wide. In some circumstances excess waste left next to bins can be defined as litter and where it is clear who has left out the excess waste

which is littering the neighbourhood a FPN may be issued on that person. Should the fixed penalty not be paid or further incidents of non-compliance occur then the Council will consider legal action at the magistrates' court to prosecute the alleged offender and recover full costs.

#### **Enforcement – Large Scale illegal dumping**

- 4.23 It is an offence under Section 33 of the Environmental Protection Act 1990 for any person to dump waste without it being in accordance with a waste management licence. This is often known as fly tipping.
- 4.24 Fly tipping is an offence which carries a maximum penalty of up to £50,000, or for very serious offences, an unlimited fine and up to five years in prison.
- 4.25 Where evidence of fly-tipping is obtained an investigation will begin and in the absence of any evidence of extenuating circumstances the Council will always initiate legal proceedings to prosecute the alleged offender and recover full costs.
- 4.26 Waste which has been illegally dumped will be stickered and placed in an enforcement bag, which is red in colour, to indicate that the illegal dumping is under investigation.

#### **Enforcement – Waste Collections**

- 4.27 Section 46 of the Environmental Protection Act 1990 enables the Council to specify the following:
- Day of collection
  - Frequency of collection
  - Number, size and type of bins provided
  - The waste streams allowed in each type of waste container.
- 4.28 The Council provides a comprehensive waste collection service including recycling materials from residents, non-recyclable waste, bulky goods and white goods. These services enable residents and businesses to dispose of their waste safely and legally. The waste collection requirements are set out in section 2 of this policy.
- 4.29 Enforcement may commence where there is evidence of non-compliance and where the household recycling and refuse is presented incorrectly either by the position of the container, time of presenting for collection or content.
- 4.30 The enforcement process will normally only take effect where attempts to improve resident behaviour through education are unsuccessful.
- 4.31 Before considering taking formal enforcement action against a householder, the Council will adopt a phased approach to securing compliance with its waste collection. The process of issuing written warnings and the imposition of fixed penalties in cases of failing to comply with such warnings has recently been put on a statutory basis under section 46A -D of the Environmental Protection Act 1990;

#### **Enforcement - Accumulations of Waste in Communal Areas**

- 4.32 The Council has a statutory duty to take action on waste accumulations which become prejudicial to health and may support or harbour vermin. The process for dealing with such accumulations is, firstly, to ascertain who the land belongs to.
- 4.33 Where the land is communally owned all occupiers of properties which abut the passageway, have a joint responsibility to maintain it and this includes keeping the land free from rubbish.

- 4.34 Once land ownership is confirmed the Council will then write to residents to inform them of the accumulations, to remind them of their responsibilities under Section 78 of the Public Health Act 1936 and to request removal of the waste. If the waste is not removed within a reasonable time frame, a Statutory Notice will be served to enforce removal.
- 4.35 If the waste remains in situ after 7 days after the Notice has been served then the Council will arrange for removal of the waste and recharge residents for any costs incurred.

#### **Enforcement - Accumulations of Waste on Private Land**

- 4.36 Waste accumulated on private land can be unsightly, or may cause a nuisance for example a smell. It can also be a public health risk by attracting rats, or even cause further dumping.
- 4.37 In such cases the owner and occupier of the land is responsible for removing any rubbish. If there has been a complaint, the Council will visit the land and try to work together with the owner and occupier to get the rubbish removed.
- 4.38 If this is not successful, the owner or occupier of the land can be served with a legal notice requiring them to remove the rubbish within a certain period of time. If they do not comply, the Council can make arrangements for the rubbish to be removed and the costs incurred recovered from the person on whom the notice is served.
- 4.39 The Council may place a charge on the property until the costs are paid.

#### **Enforcement Regarding Duty of Care**

- 4.40 Businesses are under a duty to ensure that their waste is stored, presented and disposed of in accordance with the waste Duty of Care. This Duty states that businesses must take all reasonable steps to keep waste secure prior to disposal. Businesses must be sure that their waste is transferred to a company licensed by the Environment Agency to take it and transport, recycle or dispose of it safely.
- 4.41 This transfer of waste must be officially recorded on a Waste Transfer Note. Businesses will receive a Waste Transfer Note from their authorised waste company and this record must be kept and stored by the business for two years.
- 4.42 Where businesses persistently fail to comply with the Duty of Care, the Council will take firm enforcement action by issuing statutory notices, FPNs and prosecuting where necessary.