

Report To: **COUNCIL**

Date: 21 January 2015

Executive Reporting Officer: **Member/** Councillor Taylor – Deputy Executive Leader
Councillor Gwynne – Executive Member (Clean and Green)
Ian Saxon – Assistant Executive Director (Environmental Services)

Subject: **WASTE POLICY AND ENFORCEMENT STRATEGY**

Report Summary: Following a period of consultation, the Enforcement Coordination Panel recommend adopting a Waste Policy and Enforcement Strategy set out at **Appendix 1** together with the communication and engagement plan detailed at **Appendix 2**.

Recommendations: The Waste Policy and Enforcement Strategy at **Appendix 1** is adopted and the communication and engagement plan at **Appendix 2**. is approved.

Links To Community Strategy: A Safe Environment;
A Learning Community; and
Supportive Communities

Policy Implications: If adopted the Waste Policy and Enforcement Strategy detailed in **Appendix 1** will become Council Policy

Financial Implications: There are no financial implications arising directly from this report. Enforcement activity is funded through Environmental Services revenue budgets.
(Authorised By Section 151 Officer)

Legal Implications: Relevant legislation is referred to in paragraph 4.5 of the policy at Appendix 1. In adopting and implementing the policy and strategy, the Council must comply with its equalities duties.
(Authorised By The Borough Solicitor)

Risk Management: Activities are carried out in line with current risk assessments and are recorded in the core performance system. The publicity around recycling and bins days will be crucial to the success of the Council's waste and recycling strategy in reducing costs and improving the environment. The reality is that most people comply with rules if they know and understand them. It will also be necessary to any successful enforcement against those who do not comply to demonstrate.

Access To Information: The background papers relating to this report can be inspected by contacting the report writer, by: Ian Saxon, Assistant Executive Director



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1. INTRODUCTION

- 1.1 The purpose of this report is to consider the draft Waste Policy and Enforcement Strategy at **Appendix 1**, together with the consultation responses received, and recommends that the policy is adopted by the Council.
- 1.2 It is important to have a clear policy regarding waste collection, recycling and enforcement. The policy confirms what Tameside residents and key stakeholders can expect from the waste and recycling service and also outlines what residents can do to help deliver the service.
- 1.3 The policy also outlines the Councils approach to enforcement, where it is necessary in occurrences of non-compliance. The council needs to be transparent about the approach it takes.
- 1.4 All avenues of education and support will be exhausted before enforcement is undertaken. A communication plan has been developed and can be found at **Appendix 2**. Enforcement action is always a last resort and any action taken will be reasonable and proportionate.

2. CONSULTATION

- 2.1 The consultation commenced on the 26 October 2015 and ran for 4 weeks, ending on the 27 November.
- 2.2 A questionnaire was developed and published on the Council's "Big Conversation" website where anyone could answer a series of questions and leave their comments.
- 2.3 The consultation exercise was widely publicised on social media.

3. CONSULTATION RESPONSE SUMMARY

- 3.1 Seven responses were received from members of the public.
- 3.2 85.71% of respondents agreed that residents should recycle as much waste as possible.
- 3.3 85.71% of respondents agreed that residents should dispose of their waste in the correct manner
- 3.4 85.71% of respondents agreed that the council should take enforcement action against those that do not dispose of their waste in the correct manner.
- 3.5 The following table summarises the general comments made:
 - Encourage residents to report people who do not recycle. TMBC must take Enforcement action and publish names + addresses of those who are found guilty.
 - All Enforcement should be self-funded through fines.
 - No follow up to reporting of people burning rubbish on public open ground. Some people have more bins than they should.
 - I would like to see more items being taken for recycling such as bottle tops both steel and plastic and also blister packs and yogurt pots. This can only be done if investment is put into recycling plants
 - I agree fully with recycling but when blue and brown bins are not emptied by the council it makes a mockery out of recycling. Blue bins should have been emptied last Friday but there was no collection even though bins were left on road outside alleyway. I found mine had been filled with bricks which I had to empty. When I

rang Tameside they said not a lot the can do. At the moment there is a fridge on the road I presume awaiting collection don't know who it belongs

- Each case should be dealt with on its own merit. It should not be a blanket rule for all without taking into account personal circumstances.

4. EQUALITY IMPACT

- 4.1 A full equality impact assessment has been carried out in respect of this policy. The assessment is attached at **Appendix 3**.

5. RECOMMENDATION

- 5.1 As set out on the front of the report.

APPENDIX 1

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 the following day.
- 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:

Colour	Capacity	Material	Frequency collected	Provision of Extra Receptacles
Black	180L	Glass, Plastic bottle, Cans, Aluminium Foil	Fortnightly	Additional 180L bins provided on request
Blue	140L	Paper, Cardboard, Tetra Paks	Three Weekly	Additional 140L bins available on request
Brown	240L or 23L lidded Food waste container issued to properties without a garden	Food and Garden Waste	Weekly	Additional 240L bins or 23L food waste containers available on request
Green	140L	Landfill Waste	Fortnightly	Additional or larger green bins will only be provided in

				circumstances outlined in section 2.9 of this policy
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2.5 Properties determined by the Council as not having adequate storage and access for wheeled bins, will be provided with a fortnightly collection of 3 black domestic waste sacks. Upon each collection the waste collection crew will replace the 3 sacks removed.

2.6 The Council may be able to provide a recycling service to these properties in certain circumstances. The recycling waste will be collected using recycling boxes provided to the properties.

Service for Multi Occupied Properties/Flats

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

2.8 Landlords or the developers are required to purchase bins for general waste. The Council will specify the type and number of bins required. The Council will provide the necessary recycling bins free of charge.

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

2.10 Bin store areas are the responsibility of the landlord who should ensure that bins can be accessed on the day of the scheduled collection.

2.11 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

2.12 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 size waste collection vehicle.

2.13 In these circumstances where determined appropriate by waste services the Council will use a smaller collection vehicle to collect landfill 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 (landfill) waste.

Missed Collections

2.14 When bins are presented correctly, the Council will make every reasonable attempt to collect recycling and landfill waste from households.

2.15 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.

2.16 Where landfill 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

- 2.17 In situations where collections cannot be made from adjacent to edge of the householder's property then the Council will identify a central point of collection.
- 2.18 In determining collection points for those affected properties, consultation will take place with the householders concerned.
- 2.19 Householders will be required to place their recycling or landfill 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

- 2.20 No collections will take place on Christmas Day, Boxing Day and New Year's Day. All other collections will remain the same.
- 2.21 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

- 2.22 The waste collection services the Council provides to residents are sufficient and adequate to manage the households' waste needs. In the majority of cases the Council provides a collection of 477 litres of waste every week.
- 2.23 To encourage waste minimisation and recycling, the Council will only collect 140 litres of non-recyclable (landfill) waste per household. The Council does recognise however, that some large households or residents with certain medical conditions may produce more than 140 litres of landfill waste at each collection despite fully participating in the recycling service
- 2.24 Where residents feel that they do not have sufficient landfill 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 arrange for an Officer to visit and carry out a waste audit and determine if additional landfill waste capacity is required.
- 2.25 There are exceptional circumstances where, due to clinical waste needs or larger households (6 persons or more) more landfill waste is created than normal. In these circumstances residents will not be required to complete a waste diary or undertake a waste audit, but will be asked to apply for an additional landfill waste bin.
- 2.26 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.

Assisted Collections

- 2.27 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.
- 2.28 This service is subject to no other able bodied person living at the property.
- 2.29 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

2.30 Provision of waste and recycling bins

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

2.31 Residents are required to purchase a landfill bin when moving into a new property. Initial recycling bins will be provided free of charge.

2.32 Residents in new and existing properties are required to pay for replacement containers. 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

2.33 Residents are advised to clearly and neatly mark the front of the bin with their address.

2.34 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

2.35 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.

2.36 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

2.37 The bulky household collection service covers the removal of up to five items.

2.38 Bulky waste items may also be taken to the Household Waste Recycling Centre or donated to a local reuse charity.

2.39 The collection of white goods is provided free of charge to pensioners.

2.40 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

2.41 The Environmental Protection Act 1990 requires all businesses which produce controlled waste have a duty 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.

2.42 Individual businesses are responsible for the presentation and management of their trade waste. They can contract with either the Council or any commercial waste collection service who will provide storage containers and uplift of waste.

2.43 Trade or commercial waste should not be placed in household bins, litter bins, or taken to the household waste recycling centre.

2.44 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

- 2.45 Customers pay all charges in advance, either monthly or annually 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.
- 2.46 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 7am on the morning of the scheduled collection. Bins or sacks should not be presented for collection and 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 Landfill 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, landfill 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.
- 3.6 All landfill 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 Landfill 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 will 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 free of 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 the area they were collected from. 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 4.27ff 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 sent to landfill, a single contaminated load costs the Council over £3000.
- 3.12 Where it is established that recycling containers are repeatedly not being used correctly, enforcement action outlined in 4.27ff will commence.

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.
- 4.5 **Relevant Legislation**
- 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
- Community Protection Notices - Anti-Social Behaviour Crime and Policing Act 2014

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.

Community Protection Notices

4.12 The purpose of a Community Protection Notice (CPN) is to stop individuals over the age of 16, businesses or organisations committing anti-social behaviour which has a detriment on the community's quality of life.

4.13 A CPN can be served by the Council and partner agencies such as the Police and Registered Social Landlords. They may be used to deal with particular ongoing problems or nuisances which negatively affect the community, by targeting those responsible. They can cover a wide range of anti-social behaviours including littering and waste related offences.

- 4.14 A CPN can be issued once an officer is satisfied that the conduct of the individual, business or organisation:
- Is having a detrimental effect on the quality of life of those in the locality
 - Is of a persistent or continuing nature, and
 - Is unreasonable
- 4.15 Once an issue has been identified and the above tests are met, a written warning will be given to the alleged perpetrator requesting that they stop their anti-social behaviour. The warning letter will also advise of the consequences should they fail to comply with the warning.
- 4.16 A CPN may include a requirement to stop doing something, to start doing something or to take reasonable steps to avoid further anti-social behaviour.
- 4.17 If the CPN is breached the Council will give consideration to the appropriate action from a range of options available:
- Fixed Penalty Notice
 - Remedial Action
 - Prosecution

Fixed Penalty Notices

- 4.18 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.
- 4.19 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

- 4.20 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.
- 4.21 Failure to accept the formal caution could result in prosecution, as would further similar breaches after the caution has been issued.
- 4.22 A formal caution will only be used where there is evidence of guilt sufficient to give realistic prospects of conviction.

Prosecution

- 4.23 When considering prosecution, officers must follow the guidance in the Code of Practice for Crown Prosecutors
- 4.24 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.
- 4.25 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

4.26 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

4.27 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.

4.28 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

4.29 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.

4.30 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.

4.31 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.

4.32 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

4.33 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.

4.34 The waste collection requirements are set out in section 2 of this policy.

- 4.35 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.
- 4.36 The enforcement process will normally only take effect where attempts to improve resident behaviour through education are unsuccessful.
- 4.37 Before considering taking formal enforcement action against a householder, the Council will adopt a phased approach to securing compliance with its waste collection policies as set out below. 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;

a) Stage One

Householders who are identified as failing to act in accordance with the Council's policies and procedures will be advised of the details of their non-compliance as well as what action/behaviour the Council requires of them.

Officers will where possible advise householders verbally, a warning hanger will be left on the container explaining why the waste has not been collected. Written advice will be provided informing them of the correct method of presenting the container and the contents.

If necessary, the Council will endeavour to remove recycling and/or refuse presented in the containers (i.e. not excess) on this first occasion if there is no significant risk to the health and safety of the collection crews.

b) Stage Two

On the second occasion householders will receive an informal written warning from the Council, which will set out what action/behaviour the Council requires of the particular householder(s) and the consequences of continued non-compliance.

If possible the Officer will contact the resident in person and advise them of the issue and seek to determine the resident's reasons for failing to present their refuse correctly.

c) Stage Three

On the third occasion a formal written warning under Section 46A of the Environmental Protection Act 1990 will be served on the householders.

d) Stage Four

Any further breach will result in a Fixed Penalty Notice (FPN) being served on the householder.

If the householder continues to present their refuse incorrectly or fails to discharge their liability by payment of the FPN, then further FPNs can be issued and enforced.

Enforcement - Accumulations of Waste in Communal Areas

- 4.38 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.
- 4.39 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.

4.40 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.

4.41 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

4.42 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.

4.43 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.

4.44 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.

4.45 The Council may place a charge on the property until the costs are paid.

Enforcement – Non-Compliance of Trade Waste Legislation

4.46 Under the Environmental Protection Act 1990 every business has responsibility to manage their waste arrangements within duty of care guidelines and regulations so as not to be detrimental to the local amenity.

Enforcement where Trade Refuse is presented

4.47 Where evidence is obtained that trade recycling or refuse has been unlawfully placed in the household collection containers, the Council will in the first instance advise the trader that this is not acceptable and explain what the business must do to comply with trade waste regulation.

4.48 If there is no improvement then the Officer will issue a Section 34 notice in accordance with the Environmental Protection Act 1990. The notice will require documentary evidence that a business has suitable arrangements for waste collection and disposal. If the correct documents are not produced then a FPN will be issued.

4.49 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 Regarding Duty of Care

4.50 When a trader is asked to provide a proper Duty of Care (DOC) Waste Transfer Note with regard to their arrangements for the collection and disposal of their trade waste and the necessary documentation cannot be immediately produced, then the trader will be given between seven and twenty one days to produce the necessary documentation.

4.51 If after twenty one days the trader has not produced the necessary documentation, the Council will issue an FPN.

4.52 If there is a second such incident of failure to immediately produce the DOC or non-payment of the fixed penalty then the Council will consider legal action at the Magistrates' Court to prosecute the alleged offender and recover full costs.