



Section 4

Compulsory Recycling Policy

Date of Issue: November 2016

Review date: November 2019

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1. Introduction

Mid Devon District Council have taken the decision to introduce Compulsory Recycling.

Current recycling procedures are a black recycling box for paper, glass, tins, cans, household metals, textiles, batteries and for the recently introduced mixed plastics. There is a green recycling box for cardboard and cartons. Both of these boxes are collected fortnightly.

From Autumn 2015, there will be a weekly food waste kerbside collection using blue food caddies and an opt-in fortnightly chargeable garden waste collection service using a brown bin.

One of the purposes of introducing compulsory recycling is to increase our recycling performance and to reduce costs for the Council. This will have a positive effect by reducing the amount of waste especially garden waste that goes into landfill, by minimising the impact on the environment and at the same time promoting the waste hierarchy. A noticeable improvement in the cleanliness of the district has been proven in other districts that have also introduced this scheme.

The legislation is aimed at encouraging everybody to use the right containers for the right kind of materials. It is not aimed at those who are already doing the right thing but at those who insist on not recycling.

2. The legislation and offences

Compulsory Recycling legislation falls under the Environment Protection Act 1990 and in particular Section 46 of this act.

It would mean that all houses in the Mid Devon District Council will be covered by this section and once the Council have provided householders with separate containers for waste and recycling, householders will have a responsibility to ensure that the correct containers are used for the correct materials.

Section 46 gives District Officers the powers to investigate those who put out their waste and recycling in wrong containers or who leave their waste out on the wrong day, time or frequency contrary to that prescribed by the Council.

3. Penalties and Payments

The presentation of waste for collection in the incorrect containers, on an incorrect day or before the prescribed time is an offence, which could result in a fine in the form of a Fixed Penalty Notice for £75.

The Fixed Penalty Notice would be issued under Section 47(z)(a) of the Environmental Protection Act 1990 and it applies where on any occasion an authorised officer of a waste collection authority has reason to believe that a person has committed an offence under section 46 (domestic) or 47 (business) in the area of that authority.

Prosecution will follow failure to pay a fixed penalty notice issued, by the Council, to the person seen to be responsible for the alleged offence.

4. Procedure

The Council intends to use its powers under Section 46 of the Environmental Protection Act to assist in achieving higher 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.

Mid Devon District Council will have a 'four steps to rubbish and recycling enforcement' policy.

The four steps below will be followed before a fixed penalty notice is given. Ultimately, step 4 will be for non-recyclers, who persistently put their waste or recycling out in the wrong container, put it out later on the wrong day.

Step 1 – Waste or recycling found in wrong container, put out late or on the wrong day will not be collected and will be stickered – District Officer identifies source of waste or recycling.

- **No?** – Supply all householders in area with information leaflets about recycling – Record incident and waste is collected – **NO FURTHER ACTION.**
- **Yes?** – Unless a 'carer' is involved whereby Council will leave information leaflets with them, then move to

Step 2 – 1st occasion in six months – the District Officer calls at home. Ensures resident is fully informed about recycling and issues information leaflet – **first warning issued and recorded** (Letter to householder, see appendix 1, and an entry in the District Officers' pocket notebook) – waste collected – NFA.

Step 3 – 2nd occasion in six months – District Officer calls at home. Explains that this is the 2nd recorded occasion. Re-issues information leaflets – **Formal Section 46 Notice Served.** See Appendix 2.

Further Comments

The 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.

Warning period – no warning will remain ‘live’ for longer than six months. Where a resident has previously received a warning and further warning is required outside of the six month period, the offence will not be escalated but dealt with as a first offence.

Other linked policies

Fixed Penalty Notices

Appendix 1



Date

Address details

Street Scene Services

Phoenix House

Phoenix Lane

Tiverton

Devon

EX16 6PP

www.middevon.gov.uk

Contact: Street Scene Services
Telephone: 01884 255255
Email: Streetscene@middevon.gov.uk
Fax / DX:

Dear Occupier

ENVIRONMENTAL PROTECTION ACT 1990 Section 46 HOUSEHOLD WASTE FOR COLLECTION – FIRST ADVISORY LETTER

As you will be aware, Mid Devon District Council introduced compulsory recycling across the District in November 2015. Introducing this service has enabled us to achieve an increase in our levels of recycling. This is important because it contributes towards making the District a safer, cleaner and greener community and will help us to reach our statutory recycling target of 60%.

On the days we have monitored your road we have noticed that you may have **put waste into the wrong receptacle**. A brief assessment was made at the time as to whether to check the bags. This may be due to the fact that a number of black sacks had been put out for one household (our best recyclers are putting out less than one black sack full of waste for two weeks, the rest is being recycled); the weight of the bags (heavy bags would have been checked) or it would have been obvious that there were recyclable items in there (for example the chink of bottles, visual sight of what is inside if the bags were split, the feel of cartons inside).

By law, Section 46 of the Environmental Protection Act 1990, the Council requires that:

A. All other items of household waste (i.e. anything not listed under B, C, D or E) shall be placed within black sacks and presented for collection. No waste shall be presented for collection outside the black sack.

B. You must ONLY place the following items in the black recycling box supplied by the Council:

Paper, Glass, Tins/Cans/Household metals, Textiles, Batteries and Mixed plastics

C. You must ONLY place the following items in the green recycling box supplied by the Council:

Cardboard and drink and food cartons

D. You must ONLY place the following items in the blue food caddies:

Food waste

E. You must ONLY place the garden waste listed below in the opt-in fortnightly chargeable brown wheeled bin provided by the Council:

For example,

Grass Cuttings Shrubs

Plants Branches

Weeds Leaves

If we can help you in any way with recycling, or if you have any queries please contact the Council on 01884 255255.

We will continue to monitor your participation in the scheme, and if you do not take part, one of our District Officers will visit your property to make enquiries and answer any questions you may have.

Residents who deliberately fail to recycle will receive a statutory notice and may find themselves being prosecuted. We will only consider this as a very last resort and hope that in the future you will take part in the recycling scheme.

Yours faithfully,

On behalf of Street Scene



ENVIRONMENTAL PROTECTION ACT 1990
Section 46
Household waste for collection

Notice served by: Mid Devon District Council

To: **Name and address of household**

Mid Devon District Council as your waste collection authority (as defined in the Environmental Protection Act 1990) is under a duty to arrange for the collection of household waste from properties in its area.

1. NOTICE

THIS IS A FORMAL NOTICE served by Mid Devon District Council ('the Council') pursuant to section 46 of the Environmental Protection Act 1990 ('the Act') requiring you as occupier of premises known as **address to be inserted here** in the Council's area to place correctly any household waste for collection from those premises in the receptacles described in the Schedule hereto ('the Schedule') and further requires you as occupier of the Premises to comply with the conditions set out in the schedule.

2. WHAT HAPPENS IF YOU FAIL TO COMPLY

If you fail without reasonable excuse to comply with any requirements specified in this Notice and this gives rise to nuisance or detriment to amenity you:

(a) If the breach is not rectified, you may be issued with a fixed penalty, following the issue of this notice, in the sum of £75.

Your attention is also drawn to section 46 (11) of the Act which states that: *'A waste collection authority is not obliged to collect household waste that is placed for collection in contravention of a requirement under this section'*. This means that if you do not comply with the requirements of this notice the Council shall be entitled to refuse to collect your waste.

THE SCHEDULE

No bins/bagged or boxed 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 of the Environmental Protection Act 1990, the Council requires that:

- A. You must ONLY place the following items in the black recycling box 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 and drink and food cartons;
- C. You must ONLY place the following items in the blue food caddies: Food waste;
- D. You must ONLY place the garden waste listed below in the opt-in fortnightly chargeable brown wheeled bin provided by the Council:

For example: 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 presented for collection. No waste shall be presented for collection outside the black sack.

Dated: _____ Signed: _____

Name: _____

Designation: Enforcement Officer

Please address any communications to:

Mid Devon District Council
Street Scene Services
Phoenix House
Phoenix Lane
Tiverton
Devon EX16 6PP
www.middevon.gov.uk

Customer services
01884 255255
customerservices@middevon.gov.uk

NOTES:

Appeals

The Environmental Protection Act 1990 provides that where a notice under section 46 requires an occupier to provide receptacles, that person may appeal to a magistrates' court against the notice, either on the ground that any requirement specified in the notice is unreasonable, or on the ground that the receptacle(s) in which household waste is already placed is or are adequate.

If an occupier wishes to appeal in this way, the appeal must be made within 21 days beginning either with the last date specified in the notice by which the receptacle(s) must be provided, or, where no period is specified, from the day on which the notice was served.

If such an appeal is made the court may either quash or modify any requirement in the notice or may dismiss the appeal.

Pending the determination of the appeal by the court the notice shall have no effect.