



Draft Document

Enforcement Procedures and Guidelines



One-Pass Recycling Collection Service

This document details the Enforcement Procedures for the collection of Domestic Recycling, Food Waste and Residual Waste for Thanet District Council, using a one pass system.

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1 | Introduction

The aim of this document is to determine good practice and to demonstrate clarity and consistency in the delivery of those waste management enforcement duties and powers relevant to Thanet District Council (TDC) in accordance with the council's waste management enforcement policy.

2 | Legislation

TDC has key legislation, under the Environmental Protection Act 1990 (EPA 1990) and the Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) and under other legislation relating to the environment. These offer a wide range of powers to enable TDC to fulfil the duties for which it is responsible.

All enforcement action taken by TDC will be with regard to the relevant statutory provisions which include:

- Environment Protection Act 1990
- Control of Pollution (Amendment) Act 1989
- Controlled Waste Regulations 1992
- Clean Neighbourhoods and Environment Act 2005
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulations of Investigatory Powers Act 2000
- Refuse Disposal (Amenity) Act 1978
- Town and Country Planning Act 1990

3 | Enforcement - Definition

Enforcement is any formal or informal action taken to prevent or rectify infringements of legislation. The Enforcement options may differ where different areas of legislation are used but the principles of application should remain constant and consistent.

Enforcement includes visits, inspections, verbal and written advice or information on legal requirements and good practice, assistance with compliance, written warnings, the servicing of statutory notices, issuing fixed penalty notices, formal cautions, prosecution, seizure and detention, works in default, injunctions and liaison and co-operation with other enforcement authorities and organisations where appropriate.

4 | Frontline Services

TDC has developed recycling policies in relation to the collection of household recycling and residual waste. The details contained within this procedure will offer guidance and assistance to officers involved in enforcement activities.

Under the Environment Protection Act 1990 (EPA 1990), TDC can specify what materials can and cannot be placed in certain kinds of waste receptacles and the location where residents must put their waste receptacles to facilitate waste collection. If the location is outside of the boundary of a property, TDC can also specify between what times the receptacles must be put out and taken back in. Failure to comply with these specifications is an offence.

The overall aims of TDC and its officers are where an offence occurs, to resolve the issue by information, advice and education. However, if an offence is persistent with no attempt of conformity, TDC can issue a Waste Receptacles Notice to a person for failing to comply with these specified requirements. The Clean Neighbourhoods and Environment Act 2005 (CNEA 2005) introduced the use of fixed penalties for failure to comply with a Waste Receptacles Notice.

In lieu of prosecution for failure to comply with a Waste Receptacles Notice, TDC will give an alleged offender the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty of either £50 or £80 if not paid within 7 days.

4.1 | Infringements under the service policy

Due to persist problems associated with seagulls and subsequent strewn litter, on all occurrences of non compliance with regard to excess material whether as non conforming containers, open lid or side waste, all bins/bags containing residual waste will be collected.

4.1.1 | Infringement of Recycling Policy No.1 > Non Thanet District Council receptacles

"If non acceptable receptacles are presented for collection, they and its contents will be collected and a hanger placed on another bin/receptacle advising the resident that non compliance has occurred"

Procedure:

1. 1st non compliance: The operative should empty the container but leave a "yellow" hanger on the receptacle and report the instance to the supervisor to be recorded.
2. 2nd non compliance: The container will be emptied and a "orange" hanger will be left on the receptacle and the instance reported to the supervisor to be recorded.

A TDC Officer **Letter RP No. 1** referring to s46 notice. A TDC officer where practical will make contact with householder and offer solutions, education etc.

3. 3rd non compliance: The container will be emptied and a "red" hanger will be left on the receptacle and the instance reported to the supervisor to be recorded.

Enforcement Officer sends **Letter RP No. 2** and issues s46 notice.

Any further non-compliance and failure to comply with s46 notice, Enforcement Officer issues a Fixed Penalty Notice of either £50 or £80 if not paid within 7 days.

4.1.2 | Infringement of Recycling Policy No. 3 > Collection point for emptying wheeled bins, bags and boxes

*"Should receptacles not be presented at the property boundary or agreed collection point, they will be collected on the **first occasion only** and a hanger*

*placed on the receptacle advising the resident that non compliance has occurred and further breaches the container **will not** be emptied."*

Procedure:

1. 1st non compliance: The operative should empty the container but leave a "yellow" hanger on the container and report the instance to the supervisor to be recorded.
2. 2nd non compliance: The container **will not be emptied** and an "orange" hanger left on the receptacle and the instance reported to the supervisor to be recorded.
3. A TDC Officer **Letter RP No. 1NE** referring to s46 notice. A TDC officer will make contact with householder and offer solutions, education etc.
3. 3rd non compliance: The container **will not be emptied** and a "red" hanger will be left on the container and the instance reported to the supervisor to be recorded.
Enforcement Officer sends **Letter RP No. 2NE** and **issues s46 notice**.

Any further non-compliance and failure to comply with s46 notice, Enforcement Officer issues a Fixed Penalty Notice of either £50 or £80 if not paid within 7 days.

4.1.3 | Infringement of Recycling Policy No. 5 > Open Bin Lids

"If a wheeled bin lid is not closed because the bin is overfilled with residual waste, the bin will be emptied and a hanger placed on the bin advising the resident that non compliance has occurred."

Procedure:

1. 1st non compliance: The operative should empty the bin but leave a "yellow" hanger on the bin and report the instance to the supervisor to be recorded.
2. 2nd non compliance: The container will be emptied and an "orange" hanger will be left on the container and the instance reported to the supervisor to be recorded.
A TDC Officer **Letter RP No. 1** referring to s46 notice. A TDC officer will make contact with householder and offer solutions, education etc.
3. 3rd non compliance: The container will be emptied and a "red" hanger will be left on the receptacle and the instance reported to the supervisor to be recorded.
Enforcement Officer sends **Letter RP No. 2** and **issues s46 notice**.

Any further non-compliance and failure to comply with s46 notice, Enforcement Officer issues a Fixed Penalty Notice of either £50 or £80 if not paid within 7 days.

4.1.4 | Infringement of Recycling Policy No. 5 > Excess and Side Waste

"If side waste is placed out for collection beside the wheeled bin, all waste will be collected and a hanger placed on the bin advising the resident that non compliance has occurred."

Procedure:

1. 1st non compliance: The operative should empty the bin and remove all other waste but leave a "yellow" hanger on the bin and report the instance to the supervisor to be recorded.
2. 2nd non compliance: The bin will be emptied and remove all other waste, an "orange" hanger will be left on the receptacle and the instance reported to the supervisor to be recorded.
A TDC Officer **Letter RP No. 1** referring to s46 notice. A TDC officer will make contact with householder and offer solutions, education etc.
3. 3rd non compliance: The container will be emptied and a "red" hanger will be left on the receptacle and the instance reported to the supervisor to be recorded.
Enforcement Officer sends **Letter RP No. 2** and **issues s46 notice**.

Any further non-compliance and failure to comply with s46 notice, Enforcement Officer issues a Fixed Penalty Notice of either £50 or £80 if not paid within 7 days.

4.1.5 | Infringement of Recycling Policy No. 4 > Contamination

*"If a bin or other container becomes contaminated, the receptacle **will not be emptied** and a hanger placed on the container advising the resident that non compliance has occurred."*

1. 1st non compliance: The operative **will not empty** the container leaving an "orange" hanger on the receptacle and report the instance to the supervisor to be recorded.
A TDC Officer **Letter RP No. 1NE** referring to s46 notice. A TDC officer will make contact with householder and offer solutions, education, etc.
2. 2nd non compliance: The container **will not be emptied** and a "red" hanger will be left on the container and report the instance to the supervisor to be recorded.
Enforcement Officer sends **Letter RP No. 2NE** and **issues s46 notice**.

Any further non-compliance and failure to comply with s46 notice, Enforcement Officer issues a Fixed Penalty Notice of either £50 or £80 if not paid within 7 days.

4.1.6 | Infringement of Recycling Policy No. 4 > Contamination Communal Properties

*"If communal bins or containers become contaminated the receptacle **will not be emptied** and a hanger placed on the container advising residents that non compliance has occurred."*

Procedure:

1. 1st non compliance: The operative **will not empty** the container leaving an "orange" hanger on the receptacle and report the instance to the supervisor to be recorded.
A TDC Officer **Letter RP No. 1NE** referring to s46 notice. A TDC officer will make contact with householder and offer solutions, education, etc.

2. 3rd non compliance: The container **will not be emptied** and a “red” hanger will be left on the container and report the instance to the supervisor to be recorded.

Enforcement Officer sends **Letter RP No. 2NE** and **issues s46 notice**.

Any further non-compliance and failure to comply with s46 notice, Enforcement Officer issues a Fixed Penalty Notice of either £50 or £80 if not paid within 7 days.

5 | Persistency of non compliance

Repeat events of non compliance that are persistent and occur over a specified period of time will be treated as continual episodes.

If non compliance occurs as a repeat event within the next 2 collections of the recycling/waste stream from the original offence, this will be considered as a continual breach of service use.

Should non compliance occur after 3 collections or more, these will be considered as a new occurrence.

6 | Enforcement Procedures

Enforcement action against offences as set out in this document will require TDC officers to follow set procedures and protocols in order to ensure consistency in the collection of evidence and the enforcement actions applied in accordance with TDC Waste Management Enforcement Policy.

Enforcement action should only be taken if there is compelling and complete evidence of an offence having taken place.

6.1 | Information and Advice

Many people having had a problem for which they are responsible drawn to their attention, will be anxious to comply with their statutory obligations. In such cases the enforcement officer’s role will be to inform, guide and support. In most cases the first contact with a person reported to TDC or believed to be causing or permitting an offence, will be by advisory letter or verbal communication.

If written observations, suggestion or requirements are appropriate, such written guidance will clearly identify the nature of the complaint or problem and any remedial works that is required. The officers will, with due regard to technical accuracy and scientific convention, express requirements or suggestions in a manner that is clear and readily understandable.

Any requirements made verbally or in writing will clearly identify whether they are mandatory or advisory in nature. If the requirements are mandatory, a timescale for compliance will be specified.

6.2 | Fixed Penalty Notice

A Fixed Penalty Notice will be issued to persons who are alleged to have failed without reasonable excuse to comply with a s46 notice. It is essential for the issuing of a Fixed Penalty Notice that the authorised officer collects adequate evidence to support any legal proceedings if the notice is returned unpaid.

The Fixed Penalty Notice must contain the following information; date, time and location of the alleged offence, personal details of the alleged offender, the nature of the offence and relevant legislation, and be signed and dated upon issuing by an authorised officer. The notice will clearly state that by opting to pay the fixed penalty TDC will take no legal action for the prescribed offence, providing that the payment is received within 14 days of the issuing of the notice.

Payment of Fixed Penalties

When a Fixed Penalty Notice has been issued, the alleged offender has 14 days within which to make the full payment amount (£80), or pay a discounted amount (£50) within 7 days.

Payment of the fixed penalty notice can be made in one of three ways:

- At the Gateway, Margate
- by debit or credit card over the phone to Thanet District Council

Non-payment of Fixed Penalties

Fixed Penalty Notices give the offender the opportunity to avoid prosecution by payment of the penalty. It is essential that the evidence used to issue a Fixed Penalty Notice is of a high enough standard to support a prosecution if the fixed penalty is returned unpaid.

When, after 7 days a Fixed Penalty Notice has not been paid, the alleged offender will be sent a reminder letter. This letter will state the terms of the penalty payment, and the payment deadline.

If a Fixed Penalty Notice remains unpaid for a period of 14 days after the payment deadline has passed, a file will be put together and court proceedings will be issued. All unpaid penalties will be followed up by prosecutions through the courts.

6.3 | Prosecution

In certain cases prosecution through the courts may be the most appropriate course of action, or where other enforcement actions have had no effect. Prosecution will likely follow when:

- A Fixed Penalty Notice is issued to an alleged offender is returned unpaid after the 14 day payment period
- Three Fixed Penalty Notices have been issued to a person
- An offence is of a size or nature where a Fixed Penalty Notice is considered to be insufficient.

7 | Evidence

Evidence is the key to the enforcement procedure. The recording and storage of this evidence must be carried out in a concise and consistent manner to ensure its admissibility in Court. Evidence collected by authorised officers will come in

various forms, from various sources and, dependant on its quality, could be used in a variety of enforcement actions.

Evidence that is obtained by an authorised officer 'in the field' will be recorded contemporaneously in ink in a notebook. All entries must be clear and precise.